United States Court of Appeals

for the Second Circuit

APPENDIX

76-1583

To Be Argued By:
PHILIP B. ABRAMOWITZ

B
P/S

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-vs-

SALVATORE S. RINIOLO,

Defendant-Appellant.

APPENDIX FOR DEFENDANT-APPELLANT

PHILIP B. ABRAMOWITZ
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Defendant-Appellant
2600 Main Place Tower
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Of Counsel

UNITED STATES COURT OF APPEALS
FILED
MAR 21 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

D. C. Form No. 100 Rev.

73-71-53

TITLE OF CASE

THE UNITED STATES

vs.

LINDA HUBER FERGUSON; SALVATORE S. ("Sam") RINIOLO

Conspiracy to commit offenses against the U.S., by, to use facilities,(telephone & common carriers), & to travel & to cause others to use such facilities & travel in interstate commerce, that is by airplane, bus,automobile, with intent to promote,carry on & facilitate the promotion & carrying on of a certain unlawful activity, said unlawful activity being a business enterprise involving prostitution; & thereafter to perform & cause the performance of acts which would promote, carry on & facilitate the promotion & carrying on of the aforesaid unlawful activity, involving prostitution(Ct.1),in vio.Sect.371, T.18,USC;Use telephone facilities in interstate commerce & unlawfully aid & abet persons to travel in interstate commerce with intent to promote & carry on & facilitate the promotion & carrying on of an unlawful activity, that is, a business enterprise involving prostitution; & perform acts which would promote & carry on said unlawful activity, (Cts. 2,5), vio. of Sects.1952, 2,T.18,USC; unlawfully did aid, induce & cause a person to transport a woman in interstate commerce for the purpose of prostitution,(Ct.3),vio. Sects.2421 & 2,T.18,USC; did unlawfuly & knowingly persuade, induce & coerce a girl who had not then attained her 18th birthday, to go from one place to another by common carrier, in interstate commerce, with intent that she be induced & coerced to engage in prostitution(Ct.4), in vio of Sects. 2423, & 2, Title 18, U.S.C.

5 Cts.

Offenses: 6/1/1972 - 1/31/1974

ATTORNEYS

For U.S.:

/Richard Lisker, Esq./
Dennis O'Keefe, Esq.
Department of Justice
Strike Force
Suite 921, Genesee Bldg.,
1 W. Genesee St., Buffalo,
N.Y. 14202; Tel. # 432-3285

For Defendant:

(1) George Doyle, Esq.
(2) John Carney, Esq.
(2) Edgar NeMoyer, Esq.
(co-counsel)

On Appeal:

Philip Abaramowitz, Esq.
815 Liberty Bank Bldg.
Buffalo, N.Y. 14202
Tel. # (716)856-5400

NAME OR RECEIPT NO.	REC.	DISP.

MAR 5 1974

J.S. 2 - mailed
J.S. 3 - mailed

DATE 1974	PROCEEDINGS
Feb. 7	Filed Indictment
Feb. 7	J.S. 2 made
Jan. 23	Filed search warrant - 829- Elmwood Avenue(lower), Buffalo, N.Y.
Jan. 23	Filed Search warrant - Apt. 401, 200 Niagara St., Buffalo,N.Y.
Feb. 11	Filed Magistrate's warrant of arrest for Deft. Ferguson; warrant of arrest for Salvatore Riniolo; Complaint, Ferguson affidavit.
Feb. 11	Defendants being duly arraigned, enter pleas of not guilty to the Indictment. Deft. Ferguson released on $5,000 personal Recog. bond; Deft. Riniolo continues on $5,000 property bond. Adj. 2/28/1974 for motions. for Salvatore Riniolo
Feb. 19	Filed $5,000 - 3rd party custody bond/- supervision of parents - Elizabeth and Joseph Riniolo
Feb. 20	Filed $5,000 recog. bond for Linda Ferguson
Mar. 4	Status Report. Adj. to 3/18/1974
Mar. 4	Filed Govt's Order, application and affidavit, that a warrant be issued for the person of Ellyn Ruth Camiel, to insure her presence before the Grand Jury and at trial, in the above entitled matter-- CURTIN,J.. Issued warrant, 3/1/74 - Order signed by JTC-2/28/74
Mar. 12	Filed Notice of motion by Defts. for disclosure, discovery & Inspn.

DATE 1974	PROCEEDINGS
Mar. 12	suppression, and etc., ret. 3/18/1974
Mar. 18	Status Report. Adj. 3/25/1974
Mar. 19	Filed Govt.'s answer to defts. motions
Mar. 25	Status Report. No appearance for defts. Govt. has filed answers to deft's motions. Adj. 4/22/1974 for defts.answers to government's response
Apr. 22	Return date for briefs. Adj. 4/29/1974
Apr. 29	Return date for response by deft. Adj. to 5/6/1974 for possible motions.
May 6	Return day for motions. This is last day for defts. to respond to Govt's motions. Court is advised defts. will make no further motions. Clerk is directed to change docket to reflect that Richard Lisker is Atty for the Govt.
May 17	To set hearing date for motion to suppress.
June 5	Filed warrant - Witness Ellyn Ruth Camiel, executed 3/3/1974 - Dist. of Massachusetts
June 13	Filed Govt's notice ready to proceed to trial
June 27	Filed Ct. Steno's transcript of proceedings held before Judge Curtin, at Buffalo, New York, on June 25, 1974.
June 25	The Court directed the Govt. to advise the Court on 7/1/1974 re 3500 material.
June 27	Filed Ct. Steno's minutes of proceedings before Judge Curtin, on June 25, 1974
July 1	Govt. to advise re 3500 material. Adj. to 7-29-74.
July 29	Return date for briefs. Govt's brief to b e filed today. No appearance for defts.
June 24	Filed Magistrate's Docket Sheet
Aug. 26	Return date for deft's reply to Govt's response. Deft to make written response by 9/3. Then to be considered submitted.
Sept 3	Return date for deft's reply to Govt's response. Deft will file response today. No appearance for deft.
Dec. 16	Filed Ct. Steno's minutes of proceedings of 7/1/74
Dec. 16	Filed Ct. Steno's minutes of proceedings of 7/29/74
Dec. 16	Filed Ct. Steno's minutes of proceedings of 8/26/74
1975	
Mar. 31	Filed Govt's statement of proof
Mar. 31	Deft. present with counsel, enters a plea of guilty to count one in Cr-74-53, and a plea of guilty to counts one, two and three in Cr-75-61. Deft moves to seal Govt's statement of proof re. Motion denied. Sentence deferred until 5/19. Bail continued. (Linda Ferguso
May 19	For sentence. Adj. to 5/27
May 27	For sentence. Adj. to 6/2
June2	Sentence. Adj. to 6/9 at 9:00 a.m.
June 9	Pre-trial conference. Sentence adj. 6/16/75.
June 16	Sentence. Adj. to a date to be determined by the Court.
June 25	Pre-trial conference held in the above case. Court schedules a suppress hearing - re Deft. Salvatore Riniolo, for August 8, at 10:00 a
June 30	Filed Order denying deft. Riniolo's motion to examine the so called 3500 material prior to trial. Also defendant---Riniolo's motion to have the Court inspect the so called 3500 material in camera is denied; Defendant Riniolo's request for a suppression heari is granted. The hearing will be conducted at 10:00 a.m. 8/8/75 CURTIN, J.

Ferguson; Salvatore S. Riniolo
CRIMINAL DOCKET

Sheet # 2
Cr-74-53

DATE 1975	PROCEEDINGS	CLERK'S FEES PLAINTIFF	CLERK'S FEES DEFENDANT
July 18	The deft, Linda Ferguson, is sentenced as follows: Deft. is remaned to the custody of the Attorney General pursuant to Title 18 Sec. 4208B U.S. Code for study. Curtin, J.		
July 23	Filed Judgment and Commitment order; Commitment issued.		
Aug. 6	Filed letter dated 8/4/75 from Dennis P. O'Keefe Dept. of Justice Atty. to Judge Curtin, requesting a postponement until ~~Monday 8/25/1975 for suppression hearing, recently set for~~ 8/8/75		
Aug. 6	Filed certified copy of J & C for Deft. Ferguson, with Marshal's ~~return of service to the Federal Reformatory for Women~~, at Alderson, West Virginia, on August 1, 1975		
Sept. 4	Meeting with Judge. Suppression hearing scheduled for today not held because of illness of defendant. Adj. 10/6/75 for Status Report. ~~Re - deft. Salvatore Riniolo~~		
Sept.18	Filed letter dated 9/17/1975, from Dennis O'Keefe, Sp. Atty., Dept. of Justice, to the Court, in response to the trial notice, to be ready for trial on 9/23/1975, and reminding the court of a suppression hearing scheduled for 10/6/1975		
Oct. 2	Pre-trial conference held for Deft. Riniolo. Adj. to Nov. 3 for further pre-trial conference.		
Oct. 6	Status Report. Salvatore S. Rinolo. No appearance for deft. Adj. to Nov. 3 for hearing		
Oct. 30	Filed Marshals return of J&C for Deft Ferguson, to the Erie County Holding Center, on 10-24-75		
Oct. 31	Deft Ferguson is sentenced as follows: Imposition of sentence is suspended and deft is placed on probation a period of four (4) years, Counts 2 thru 4 are hereby dismissed. CURTIN, J.		
Nov. 3	J.S. 3 made.		
Nov. 4	Filed Judgment and order of probation. for deft Ferguson.		
Nov. 3	Suppression hearing for Riniolo. Hearing adj. until 11-6-75		
Oct. 31	On motion of the Govt. the deft is sentenced as follows: Imposition of sentence is suspended and deft is placed on probation for a period of 4 remaining count of the indictment are dismissed as well as Cr-75-61.		
Nov. 6	Hearing continued from Nov. 3 with the same appearances.		
Nov. 18	Filed Govt's Brief on Search Warrants.		
Nov. 24	Memo due. Govt. memo filed. No appearance for deft. Adj. to 12-1-75 for defts memo.		
Dec. 1	Return date for briefs. Adj. 12/15/75 for defts. response.		
Dec.12	Filed Defendant Riniolo's brief		
1976			
Jan. 19	Return date for briefs. Submitted.		

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DATE 1976	PROCEEDINGS	CLERK'S FEES PLAINTIFF	CLERK'S FEES DEFENDANT
Mar 10	Filed Govt's notice of motion to correct the sentence for deft. Linda Ferguson in companion case, CR-75-61 - to Four (4) Years Probation, (Indictment, in CR-75-61 erroneously dismissed, at time of sentence on 10/31/75). ret. 4/13/76		
Mar. 29	Filed Ct. Steno's transcript of hearing on motion to suppress held on 11/3/75 before Judge Curtin.		
Apr. 12	Correction of sentence previously imposed on deft. Linda Huber Ferguson. Imposition of sentence is suspended and the deft. is placed on probation for a period of Four(4) Years, on all three counts. Time of beginning of sentence is from the time of the original sentence. CURTIN,J.		
Apr. 21	Filed corrected Judgment and order of probation for deft. Ferguson. Curtin, J.		
Aug. 18	Filed Decision & Order that the court finds that probable cause for the search existed, and that the items were seized properly. The defendant's motion to suppress is denied. CURTIN,J. (Riniolo) dated 9/14/76		
Sept. 15	Filed cy. of letter to John Carney, Esq., from Dennis P.O'Keefe, Strike Force Atty., re his supplying to the defense and to the Court, copies of pages 14 and 15 of witness Rita Marie Burchill's grand Jury testimony of 1/31/74, etc.		
Sept. 23	Filed subpoena (D.T.) - Custodian of the Records, American Airlines, Buffalo International Airport, served 9/21/76		
9/29/76	Filed subpoena (D.T.) Patricia Pratt, served 9/27/76		
Sept. 29	Meeting re determination of counsel. Deft. present. Deft. makes application for change of counsel. Court directs that he may retain any counsel he wishes but trial is to proceed as previously scheduled, on 10/12/76.		
Oct. 4	Filed Cy. of letter to John Carney,Esq., from Dennis O'Keefe, Atty., Dept. of Justice Strike Force, dated 10/1/76, enclosing a copy of Buffalo Police report of Det. Sgt. Raymond Dayka, of 1/19/74		
Oct. 12	Filed Ct. Steno's transcript of Proceedings held before Judge Curtin on 3/31/75 for deft. Salvatore S. Riniolo		
Oct. 12	Govt. moves case ready for trial, before Judge Charles L. Brieant,Jr., (sitting by designation), at Buffalo, N.Y., whereupon the Jury is duly empaneled.		
Oct. 15	Trial begins with same appearances as on October 12, 1976, when jury was empaneled. Witnesses testify for the Govt. Court adjs. Trial until 10/18/76.		
Oct. 18	Trial continues from 10/15/76 with same appearances.Trial is adj. until 10/19/76.		
Oct. 18	Filed Order that Witness Linda Ferguson be and is directed to give testimor etc.- Brieant, J.		
Oct. 19	Filed Govt's memorandum Of Law re: The possible impeachment of Govt. Witness Linda Huber Ferguson		
Oct. 19	Filed Govt's trial Brief		
Oct. 19	Filed Deft's requested Jury instructions		
Oct. 19	Filed Additional Defense Request		

U.S. v. Salvatore S. Riniolo — Sheet # 3

CRIMINAL DOCKET — Cr-74-53

DATE 1976	PROCEEDINGS	CLERK'S FEES PLAINTIFF	CLERK'S FEES DEFENDANT
Oct. 19	Trial continues from yesterday with same appearances. The jury retires to deliberate upon their verdict. The Jury returns with a verdict of guilty on Count One of the Indictment and not guilty on Counts 2,3,4. Sentence deferred 10/29/76 at 10:15 a.m.		
Oct. 20	Filed Deft's requested Voir Dire		
Oct. 20	Filed Govt's application to the Court regarding Judicial Notice		
Oct. 28	Motion by deft. to postpone sentence denied. Defendant Riniolo is sentenced as follows: Defendant is remanded to the custody of the Attorney General for a period of Two and One-Half (2½) Years. -- BRIEANT, D.J.(Sitting by Designation)		
Oct. 28	Bail continued pending appeal.		
Oct. 28	Filed Judgment and Commitment. Commitment issued.		
Oct. 29	Filed notice of appeal for deft Riniolo		
Nov. 1	Copy of notice of appeal, form A and copy of docket entires mailed to CCA.		
Dec. 15	Original pertinent papers, exhibits, docket entries, clerk's certificate, and index to record on appeal and index to exhibits mailed to CCA.		
1977			
Jan. 18	Filed ct. Steno's transcript of trial transcript. 2 volumes		
Jan. 18	trial transcript, supplemental clerk's certificate, supplemental index, and copy of docket entries mailed to CCA.		
January 19	Filed letters dated 11/26/76; December 4, 1976; and January 8, 1977, to Judge Brieant from Linda Ferguson		
Jan. 19	Filed cy. of letter to Linda Ferguson, from Judge Brieant, dated 1/14/77, in response to her letters of 11/26/76, 12/4.1976 and 1/8/77		
Feb. 10	Filed Ct. Steno's transcript of sentencing.		
Feb. 10	Ct. Steno's transcript mailedto CCA.		

D. C. 109

CLOSED

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In the District Court of the United States

For the Western District of New York

THE UNITED STATES OF AMERICA

-vs-

LINDA HUBER FERGUSON
SALVATORE A. ("Sam") RINIOLO

NOVEMBER 1973 SESSION

No. CR. 1974-53

Vio. 18 U.S.C. Sections 371, 1952, 2421, 2422, 2423 and 2.

FILED: 2/7/74

COUNT I

The Grand Jury charges:

THAT continuously between approximately June 1, 1972 and January 31, 1974, that exact dates being to the Grand Jurors unknown, in the Western District of New York and elsewhere, the Defendants herein, LINDA HUBER FERGUSON and SALVATORE A. ("Sam") RINIOLO, unlawfully did conspire, combine and agree together and with each other and with Carol Barber, Betty Grand a/k/a "Sammie", Mamie Harris and Raymond Pandelli (named herein as co-conspirators but not as defendants) and with numerous other persons most of whose names are to the Grand Jurors unknown, to commit offenses against the United States of America, namely:

(A) To use facilities in interstate commerce (that is, telephone facilities and common carriers) and to travel and to cause others to use such facilities and travel in interstate commerce (that is, by airplane, bus and automobile between Buffalo, New York in the Western District of New York and places outside the State of New York including, among others, Boston, Massachusetts, Warren, Ohio and Pittsburgh, Pennsylvania) with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of a certain unlawful activity -- the said unlawful activity being a business enterprise involving prostitution, in violation of Article 230 of the Penal Law of the State of New York and Sections 2421, 2422 and 2423 of Title 18 of the United States

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Code; and, thereafter, to perform, attempt to perform, and cause the performance of acts which would promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of the aforesaid unlawful activity involving prostitution, in violation of the provisions of Sections 1952 and 2 of Title 18 of the United States Code; and

(B) To knowingly transport and cause, aid and abet the transportation in interstate commerce (that is, between Buffalo, New York and points outside the State of New York) of women and girls for purposes of prostitution, debauchery and other immoral purposes; and to knowingly procure and obtain and cause, and aid and abet the procurement and obtaining of tickets and other forms of transportation and evidence of rights thereto to be used by various women and girls in interstate commerce as aforesaid and in going between Buffalo, New York and other places outside the State of New York for purposes of prostitution, debauchery and other immoral purposes, in violation of the provisions of Sections 2421 and 2 of Title 18 of the United States Code; and

(C) To knowingly persuade, induce and entice and cause, aid and abet the persuasion, inducement and enticement of women and girls to go from one place to another in interstate and foreign commerce (that is, between Buffalo, New York and points outside the State of New York) for purposes of prostitution, debauchery and other immoral purposes, and thereby to knowingly cause such women and girls to go and be transported as passengers upon common carriers (that is, airplanes, buses and trains) in interstate commerce as aforesaid, in violation of the provisions of Sections 2422 and 2 of Title 18 of the United States Code; and

(D) To knowingly persuade, induce and entice and cause, aid and abet the persuasion, inducement and enticement of girls, who

had not attained their eighteenth (18) birthday, to go from one place to another as aforesaid by common carrier as aforesaid in interstate commerce with intent that such girls be induced to engage in prostitution, debauchery and other immoral practices, in violation of Sections 2423 and 2 of Title 18 of the United States Code:

OVERT ACTS

AND, during the period aforesaid, the said Defendants, LINDA HUBER FERGUSON and SALVATORE A. ("Sam") RINIOLO, committed, among others, the following overt acts in furtherance of the said conspiracy and in order to effectuate the object and purpose thereof, to wit:

1. On several occasions between approximately December 16, 1972 and December 23, 1972, the exact date being unknown, Rita Marie Burchill (who was then sixteen years of age and who had just been transported by automobile from Warren, Ohio to Buffalo, New York by the co-conspirator Raymond Pandelli) had conversations with LINDA HUBER FERGUSON and SALVATORE A. ("Sam") RINIOLO.

2. Sometime around December 23, 1972, the exact date being to the Grand Jurors unknown, Rita Marie Burchill obtained an airline ticket from LINDA HUBER FERGUSON and traveled by commercial airline from Buffalo, New York to Cleveland, Ohio;

3. Sometime around December 18, 1973, the Defendant LINDA FERGUSON, in Buffalo, New York, telephoned Betty Grand alias "Sammie" in Pittsburgh, Pennsylvania;

4. Sometime during approximately the third week of January, 1974, the Defendant SALVATORE RINIOLO, while at Apartment 401, 200 Niagara Street, Buffalo, New York, had a conversation with a seventeen year old girl, who was then and there using the alias "Joyce Williams";

5. On or about January 19 and 20, 1974, the aforesaid "Joyce Williams" had a conversation about prostitution with the Defendants, LINDA HUBER FERGUSON and SALVATORE RINIOLO, while at 829 Elmwood Avenue (Lower), Buffalo, New York.

All of which was in violation of Section 371 of Title 18 of the United States Code.

COUNT II

The Grand Jury Further Charges:

That sometime during the month of December, 1972, the exact dates being to the Grand Jurors unknown, in the Western District of New York and the Nothern District of Ohio, the Defendants herein LINDA HUBER FERGUSON and SALVATORE A. (Sam) RINIOLO unlawfully did use telephone facilities between Warren, Ohio and Buffalo, New York and unlawfully did aid, abet, counsel, commend, induce and cause one Raymond Rocco Parnelli and Rita Marie Burchill to travel in interstate commerce (that is, by automobile from Warren, Ohio to Buffalo, New York sometime around December 16, 1973) with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity -- that is, a business enterprise involving prostitution in violation of Article 230.00 of the Penal Law of the State of New York and of Section 2421 of Title 18 of the United States Code; and thereafter, the said Defendants, LINDA HUBER FERGUSON and SALVATORE A. (Sam) RINIOLO, did perform and attempt to perform acts which would promote, manage,

establish and carry on and facilitate the promotion, management, establishment and carrying on of the said unlawful activity, the said acts including, among others, (1) establishing Rita Marie Burchill as a prostitute at 829 Elmwood Avenue in Buffalo, New York and (2) assisting in arranging a commercial flight from Buffalo, New York to Cleveland, Ohio, all in violation of Sections 1952 and 2 of Title 18 of the United States Code.

COUNT III

The Grand Jury Further Charges:

That sometime around December 16, 1972, the exact date being to the Grand Jurors unknown, in the Western District of New York and the Northern District of Ohio, LINDA HUBER FERGUSON and SALVATORE A. (Sam) RINIOLO unlawfully and knowingly did aid, abet, counsel, command, induce and cause one Raymond Rocco Pandelli (named herein as a co-conspirator but not indicted as a defendant) to transport in interstate commerce (that is, by automobile from Warren, Ohio to Buffalo, New York) one Rita Marie Burchill for the purpose of prostitution, all in violation of Sections 2421 and 2 of Title 18 of the United States Code.

COUNT IV

The Grand Jury Further Charges:

That sometime around December 23, 1972, the exact date being to the Grand Jurors unknown, in the Western District of New York and elsewhere, LINDA HUBER FERGUSON and SALVATORE A. (Sam) RINIOLO did unlawfully and knowingly persuade, induce, entice and coerce one Rita Marie Burchill, a girl who had not then attained her eighteenth birthday, to go from one place to another by common carrier, in interstate commerce, that is, by commercial airplane from Buffalo, New York to Cleveland, Ohio, with intent that she be

induced and coerced to engage in prostitution, all in violation of Sections 2423 and 2 of Title 18 of the United States Code.

COUNT V

The Grand Jury Further Charges:

That sometime during the month of December, 1973, the exact dates being to the Grand Jurors unknown, in the Western District of New York and the Western District of Pennsylvania, the Defendants herein LINDA HUBER FERGUSON and SALVATORE A. (Sam) RINIOLO unlawfully did use telephone facilities between Pittsburgh, Pennsylvania and Buffalo, New York and unlawfully did aid, abet, counsel, command, induce and cause a Female known only as "Vicky" to travel in interstate commerce (that is, by public conveyance from Pittsburgh, Pennsylvania to Buffalo, New York sometime around December 15, 1973) with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity -- that is, a business enterprise involving prostitution in violation of Article 230 of the Penal Law of the State of New York and of Section 2421 and 2422 of Title 18 of the United States Code; and thereafter, the said Defendants LINDA HUBER FERGUSON and SALVATORE A. (Sam) RINIOLO, did perform and attempt to perform acts which would promote, manage, establish and carry on and facilitate the promotion, management, establishment and carrying on of the said unlawful activity, the said acts including, among others, establishing the said "Vicky" as a prostitute at Apartment 401, 200 Niagara Street in Buffalo, New York, all in violation of Sections 1952 and 2 of Title 18 of the United States Code.

UNITED STATES ATTORNEY
WESTERN DISTRICT OF NEW YORK

A TRUE BILL:

FOREMAN

//

United States District Court

FOR THE

Western District of New York

UNITED STATES OF AMERICA

vs.

829 Elmwood Avenue (Lower)
Buffalo, New York

Magistrate's Docket No. 74

Case No. 16M

SEARCH WARRANT

To Any Special Agent of the Federal Bureau of Investigation

Affidavit having been made before me by Special Agent RONALD LEE HAWLEY

that he { has reason to believe } that { on the premises known as }

829 Elmwood Avenue (Lower), Buffalo, New York

in the Western District of New York

there is now being concealed certain property, namely

here describe property

customer lists, personal address books, ledgers, files, photographs, written correspondence, records, money, bills, receipts and other documents and items

which are fruits, instrumentalities and evidence of a conspiracy to

here give alleged grounds for search and seizure

violate and violations of Title 18, United States Code, Sections 1952 (Travel Act-Prostitution), 2421 (White Slave Act), 371 (Conspiracy) and 2.

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the { person / premises } above described and that the foregoing grounds for application for issuance of the search warrant exist.

You are hereby commanded to search forthwith the { place } named for the property specified, serving this warrant and making the search { in the daytime } and if the property be found there to seize it, leaving a copy of this warrant and a receipt for the property taken, and prepare a written inventory of the property seized and return this warrant and bring the property before me within ten days of this date, as required by law.

Dated this 31 day of January, 19 74

Edward M. Nowak
U.S. Magistrate.

[1] The Federal Rules of Criminal Procedure provide: "The warrant shall direct that it be served in the daytime, but if the affidavits are positive that the property is on the person or in the place to be searched, the warrant may direct that it be served at any time." (Rule 41(c))

Form A. O. 93 (Revised Sept. 1970) Search Warrant

United States District Court

FOR THE

Western District of New York

UNITED STATES OF AMERICA

vs.

Apartment 401,
200 Niagara Street,
Buffalo, New York

Magistrate's Docket No. 74

Case No. 15M

SEARCH WARRANT

To Any Special Agent of the Federal Bureau of Investigation

Affidavit having been made before me by Special Agent RONALD LEE HAWLEY

that he { has reason to believe / ~~is positive~~ } that { ~~the person~~ / on the premises known as }

Apartment 401, 200 Niagara Street, Buffalo, New York

in the Western District of New York

there is now being concealed certain property, namely

(here describe property)

customer lists, personal address books, ledgers, files, photographs, written correspondence, records, money, bills, receipts and other documents and items

which are fruits, instrumentalities and evidence of a conspiracy to

(here give alleged grounds for search and seizure)

violate and violations of Title 18, United States Code, Sections 1952 (Travel Act-Prostitution), 2421 (White Slave Act), 371 (Conspiracy) and 2.

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the { ~~person~~ / premises } above described and that the foregoing grounds for application for issuance of the search warrant exist.

You are hereby commanded to search forthwith the { ~~person~~ / place } named for the property specified, serving this warrant and making the search { in the daytime / ~~at any time in the day or night~~ } and if the property be found there to seize it, leaving a copy of this warrant and a receipt for the property taken, and prepare a written inventory of the property seized and return this warrant and bring the property before me within ten days of this date, as required by law.

Dated this 21 day of January, 1974

Edward M. Smith
U.S. Magistrate.

[1] The Federal Rules of Criminal Procedure provide: "The warrant shall direct that it be served in the daytime, but if the affidavits are positive that the property is on the person or in the place to be searched, the warrant may direct that it be served at any time." (Rule 41C)

FERGUSON AFFIDAVIT

Your Affiant, Special Agent Ronald Lee Hawley, having been duly sworn in the manner provided by law, deposes and says the following, to wit:

Your Affiant has been a Special Agent of the Federal Bureau of Investigation throughout the past six years and has been assigned to the Organized Crime Unit in the Buffalo Office during the past five years. During the past several months, Your Affiant has conducted a continuing investigation into the activities of Linda Ferguson (W/F/5-18-48) and Salvatore Riniolo (W/M/8-28-40), both of whom reside at 829 Elmwood Avenue (Lower), Buffalo, New York, according to physical surveillances which have been conducted by Special Agents of the Federal Bureau of Investigation, who have been working with Your Affiant, the most recent of which was November 19, 1973. Your Affiant submits there is probable cause to believe that both are engaged in an interstate prostitution ring in violation of the laws of the United States. The specific information is as follows:

Source I is known to Special Agent John F. McAuliffe, who is working with Your Affiant in this matter, to be a gainfully employed citizen who has no criminal involvement other than the apparent violation of Section 230.05 (N. Y. P. L. -- Patronizing a Prostitute) as described herein. Source I has been a customer of the prostitution operation carried on by Linda Ferguson from her residence, 829 Elmwood Avenue (Lower), Buffalo, for approximately two years. Your Affiant believes Source I to be legally reliable because of his declarations against penal interest as described herein, his otherwise respectable position in the community and the fact that Source I has provided information in the past concerning other prostitution operations which have been consistently corroborated by independent investigation conducted by Special Agents of the Federal Bureau of Investigation.

During the second week of October, 1973, Source I, in the presence of Your Affiant and Special Agent John F. McAuliffe, telephoned Linda Ferguson at 829 Elmwood Avenue, Buffalo. Source I, who used a code name, was instructed by Ferguson to wait thirty minutes then go to 200 Niagara Street, Apartment 401, Buffalo, New York.

At the specified time on that date, Source I went to the above-mentioned address and was admitted by the prostitute in residence. Source I had sexual intercourse with the prostitute and paid her forty dollars.

Subsequently, within the past ten days, Source I made similar arrangements with Ferguson and was directed again to the same apartment at 200 Niagara Street. Then Source I had sexual intercourse with a prostitute who identified herself as "Darlene," who said she was from Albany and had previously worked as a prostitute in Boston. Your Affiant believes that this is "Joyce Williams" described below because she had sutures down the center of her forehead as did Williams when arrested on January 18, 1974. Source I paid "Darlene" [redacted] dollars.

On or about January 18, 1974, at approximately 11:37 PM, Officer Anthony Gawron of the Buffalo Police Department (who has since provided Your Affiant with the information contained herein) arrested a female who identified herself as "Joyce Williams" (W/F/8-15-54) and gave a home address of 75 St. Alphunsus, Boston, Massachusetts. At the time of arrest, this female had sutures running down the center of her forehead. The arrest was predicated upon an offer by the said Joyce Williams to engage in sexual intercourse and fellatio with Officer Gawron (who was then and there operating in civilian clothing) for the sum of $25.00. She was charged with Prostitution in violation of Section 230.00 of the Penal Law of the State of New York.

Subsequently, at the station house, Detective Sergeant Raymond Dayka (who is working with Your Affiant on this matter) took the following statement from Joyce Williams, who was completely advised of her Miranda Rights:

Williams identified a photograph of the said Linda Ferguson and stated that she had been contacted by Ferguson in Boston, Massachusetts by telephone and was directed by Ferguson to come to Buffalo, New York by bus for purposes of engaging in prostitution, which Williams did, on or about January 16, 1974. Williams further stated that Ferguson arranged for her (Williams) to stay in Apartment 401 at 200 Niagara Street and to engage in prostitution by appointment at that location. Williams agreed to split the profits on a 50/50 basis with Ferguson. Williams stated that she had worked as a prostitute in both Albany and Boston. Williams further identified a police department photograph of Salvatore Riniolo as having been present with Linda Ferguson during conversation when some of the arrangements were finalized. After Williams had given the statement, which incriminated Riniolo and Ferguson, Williams placed a call by dialing Ferguson's telephone number of 883-9186 (which Your Affiant knows to be listed to Ferguson at 829 Elmwood Avenue (Lower), Buffalo, New York) and talked to the party on the other end. After that Williams returned and refused to give any further statement. She advised the officers that a lawyer was being obtained for her.

Wherefore, Your Affiant submits that there is probable cause to believe that the aforesaid Linda Ferguson and Salvatore Riniolo have for some months past and are presently conspiring to violate and have violated the provisions of Sections 1952 and 2 of Title 18, United States Code (Interstate Transportation in Aid of Racketeering - Prostitution), in that they unlawfully did cause the said Joyce Williams to travel in between Boston, Massachusetts and Buffalo, New York on or about January 16, 1974

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with intent to promote, manage, establish, carry on and facilitate an unlawful activity (namely, prostitution in violation of Sections 230.20 and 230.25 of the Penal Law of the State of New York and Section 2421 of Title 18 of the United States Code (Mann Act)) and thereafter to perform and attempt to perform acts to promote, manage, establish, carry on and facilitate the said unlawful activity; and that the said suspects have conspired to violate and did violate the provisions of Sections 2421 and 2 of Title 18, United States Code by knowingly causing the transporting in interstate commerce (i.e. between Boston, Massachusetts and Buffalo, New York of a woman (Joyce Williams)) for purposes of prostitution; all of which was in violation of Section 371 of Title 18 of the United States Code.

And, Your Affiant believes that evidence of this conspiracy in the form of customer lists, personal address books, photographs, receipts, airline and motel bills, money, correspondence, checks and other documents will be found on the premises described as 829 Elmwood Avenue (Lower), Buffalo, New York (Ferguson's residence), Apartment 401, 200 Niagara Street, Buffalo (temporary residence of the prostitute "Joyce Williams").

In addition, Your Affiant requests that warrants of arrest be issued for both Linda Ferguson and Salvatore Riniolo for the above-specified violations; and, that a Material Witness warrant be issued for the said Joyce Williams a/k/a "Darlene" because she is believed to have given a false identity to local authorities and has now refused to cooperate.

RJH

Affiant

Subscribed and Sworn To
Before Me This 21st Day of
January, 1974 at
Buffalo, New York

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United States Magistrate

In addition to the above, Your Affiant has been advised by Special Agent Edwin C. Taylor of the FBI that, during ~~December of 1972~~ January of 1973, Source III advised him of the following: During late 1972, Source II was brought to Buffalo from another state for purposes of engaging in prostitution. Source III was taken to Linda Ferguson and Sebastian Rinaldo (whose photographs she identified subsequently), both of whom were then living together at 724 Elmwood Ave., Buffalo. Source III remained in Buffalo approximately six weeks working as a prostitute for Ferguson and Rinaldo. From conversations and first-hand observations during this period, Source III was able to report that Rinaldo acts as Linda Ferguson's pimp and is the manager of the Ferguson operation, actually having contact with the prostitutes on occasion. Your Affiant believes Source III to be credible because she testified to these and other facts before a Federal Grand Jury under oath and her statements dovetail with the Source information contained herein as well as with other Source information known to Your Affiant.

EAT

Your Affiant believes that the
attached Arrest Warrant is necessary for
Joyce Williams because (1) She refused to
cooperate further with local police after
entering Ferguson and apparently being advised
that Counsel would be provided (2) She is
admittedly a non-resident (3) Local police
and Your Affiant believe that she has given
a false name to arresting officers and has
no identification thereby prevently discovery
of her whereabouts (4) She was scheduled to
leave Buffalo shortly; (5) Her fingerprint
record is highly significant which may prevent
record identification (6) She told Special I.C.
Affiant same.

Donald Lee Hawley
Affiant

Subscribed and Sworn To
Before Me This 21st Day
of January, 1974
At Buffalo, New York

Edward M. Knapp
United States Magistrate

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff

-vs- CR-74-53

SALVATORE A. ("Sam") RIMICLO,

Defendant

The defendant is charged in a five-count indictment with various violations of 18 U.S.C. §§ 371, 1952, and 2421 et seq. The defendant has moved to suppress the fruits of searches at 829 Elmwood Avenue (lower) and Apartment 401, 200 Niagara Street in the City of Buffalo, conducted pursuant to two search warrants issued on the same day as the searches, January 21, 1974, by the United States Magistrate, Edmund Maxwell. The suppression hearing was held before this court on November 3, 1975, and the following constitutes the court's findings of fact and conclusions of law.

Both of the search warrants issued in this case were based on identical affidavits executed by Special Agent Ronald Lee Hawley of the Federal Bureau of Investigation [FBI]. The affidavit relies on information obtained

from three different informers (hereafter referred to as Sources I, II and III). Agent Hawley was personally familiar with Source I, but not Sources II and III, whose information was relayed to him by Sergeant Dayka of the Buffalo Police Department and Agent Taylor of the FBI.

The defendant argues that the search warrants were invalid because there was not a sufficient showing made for the Magistrate to find probable cause. To answer this argument, the court must analyze the affidavit to determine whether there was sufficient information presented as to the reliability of the three sources, and as to the underlying circumstances set forth by each source. Aguilar v. Texas, 378 U.S. 108 (1964); Spinelli v. United States, 393 U.S. 410 (1969).

SOURCE I

The affidavit for the search warrants in question provided the following information relative to Source I:

> Source I is known to Special Agent John F. McAuliffe, who is working with Your Affiant in this matter, to be a gainfully employed citizen who has no criminal involvement other than the apparent violation of Section 230.05

(N. Y. P. L. -- Patronizing a Prostitute) as described herein. Source I has been a customer of the prostitution operation carried on by Linda Ferguson from her residence, 829 Elmwood Avenue (Lower), Buffalo, for approximately two years. Your Affiant believes Source I to be legally reliable because of his declarations against penal interest as described herein, his otherwise respectable position in the community and the fact that Source I has provided information in the past concerning other prostitution operations which have been consistently corroborated by independent investigation conducted by Special Agents of the Federal Bureau of Investigation.

During the second week of October, 1973, Source I, in the presence of Your Affiant and Special Agent John F. McAuliffe, telephoned Linda Ferguson at 829 Elmwood Avenue, Buffalo. Source I, who used a code name, was instructed by Ferguson to wait thirty minutes then go to 200 Niagara Street, Apartment 401, Buffalo, New York.

At the specified time on that date, Source I went to the above-mentioned address and was admitted by the prostitute in residence. Source I had sexual intercourse with the prostitute and paid her forty dollars.

Subsequently, within the past ten days, Source I made similar arrangements with Ferguson and was directed again to the same apartment at 200 Niagara Street. Then Source I had sexual intercourse with a prostitute who identified herself as "Darlene," who said she was from Albany and had previously worked

> as a prostitute in Boston. Your Affiant believes that this is "Joyce Williams" described below because she had sutures down the center of her forehead as did Williams when arrested on January 18, 1974. Source I paid "Darlene" more than $20 dollars. [RLH EFM].

It is clear from paragraph one above, that there was a sufficient statement made as to the reliability of Source I. The fact that Source I provided information in the past which was consistently corroborated by independent investigation is controlling. United States v. Bolling, 522 F.2d 160, 164 (2d Cir. 1975); United States v. Sultan, 463 F.2d 1066 (2d Cir. 1972).

It is also clear from paragraphs two, three and four above, that there were sufficient underlying facts set forth to indicate how Source I came by his information. Both Agents Hawley and McAuliffe were working with Source I when he contacted and patronized a prostitute through Linda Ferguson in October, 1973, and this information was updated by additional first-hand information provided by Source I only 10 days before the search. Such information is clearly a basis for a finding of

probable cause.

SOURCE II

Source II is identified in the affidavit as Joyce Williams, also known as "Darlene," who Agent Hawley believed was the same prostitute Source I patronized 10 days before the search. The affidavit states:

> On or about January 18, 1974, at approximately 11:37 PM, Officer Anthony Gawron of the Buffalo Police Department (who has since provided Your Affiant with the information contained herein) arrested a female who identified herself as "Joyce Williams" (W/F/8-15-54) and gave a home address of 75 St. Alphunsus, Boston, Massachusetts. At the time of arrest, this female had sutures running down the center of her forehead. The arrest was predicated upon an offer by the said Joyce Williams to engage in sexual intercourse and fellatio with Officer Gawron (who was then and there operating in civilian clothing) for the sum of $25.00. She was charged with Prostitution in violation of Section 230.00 of the Penal Law of the State of New York.
>
> Subsequently, at the station house, Detective Sergeant Raymond Dayka (who is working with Your Affiant on this matter) took the following statement from Joyce Williams, who was completely advised of her Miranda Rights:

Williams identified a photograph of the said Linda Ferguson and stated that she had been contacted by Ferguson in Boston, Massachusetts by telephone and was directed by Ferguson to come to Buffalo, New York by bus for purposes of engaging in prostitution, which Williams did, on or about January 16, 1974. Williams further stated that Ferguson arranged for her (Williams) to stay in Apartment 401 at 200 Niagara Street and to engage in prostitution by appointment at that location. Williams agreed to split the profits on a 50/50 basis with Ferguson. Williams stated that she had worked as a prostitute in both Albany and Boston. Williams further identified a police department photograph of Salvatore Riniolo as having been present with Linda Ferguson during conversation when some of the arrangements were finalized. After Williams had given the statement, which incriminated Riniolo and Ferguson, Williams placed a call by dialing Ferguson's telephone number of 883-9186 (which Your Affiant knows from New York Telephone Co. Records [RLH EFM] to be listed to Ferguson at 829 Elmwood Avenue (Lower), Buffalo, New York) and talked to the party on the other end. After that Williams returned and refused to give any further statement. She advised the officers that a lawyer was being obtained for her.

The person who provided information in this statement is a confessed participant in the crime charged. In such a situation, the usual rules of reliability do not

apply. As stated by the Second Circuit in United States v. Miley, 513 F.2d 1191, 1204 (2d Cir. 1975):

> To require a showing of previous reliability by such a person would, as in the case of a victim or a witness, make his information totally unavailable, despite the peculiar likelihood of its accuracy. Such information is toto coelo removed from a "meager report" that "could easily have been obtained from an offhand remark heard at a neighborhood bar", as to which prior history of providing accurate information is required, Spinelli v. United States, ... (Citations omitted).

Source II admitted to engaging in acts of prostitution in both Albany and Boston. In the affiant's report of the statement made to Sergeant Dayka, Source II identified defendants Ferguson and Biniolo by photograph, stated that she arrived in Buffalo on or about January 16, 1974, and that it was arranged for her to stay at 200 Niagara Street, Apartment 401 and to engage in prostitution there. The officer further indicated that Source II called Linda Ferguson's phone number after her arrest. Her date of arrival in Buffalo and the location of the premises at which she was to stay are corroborated by the information provided by Source I. The phone number she called was known

by the affiant's corroboration to belong to Linda Ferguson. The declaration against interest and the degree of corroboration between the information provided by Sources I and II, as well as the independent corroboration provided by the affiant, are sufficient to establish a basis for crediting the report of Source II. United States v. Harris, 1/ 403 U.S. 573 (1971); United States v. Miley, supra. Finally, the information regarding Ferguson's phone call to Source II, while Source II was still in Massachusetts, provides the federal element of the offenses under investigation. United States v. Brouillette, 478 F.2d 1177 (5th Cir. 1973).

The information provided by Source III was related to the affiant by a Special Agent of the FBI. The affidavit states:

> During late 1972, Source III was brought to Buffalo from another state for purposes of engaging in prostitution. Source III was taken to Linda Ferguson and Salvatore Riniolo (whose photographs she identified subsequently), both of whom were then living together at 829 Elmwood Ave., Buffalo. Source III remained in Buffalo approximately one week working as a prostitute for Ferguson and Riniolo. From conversations and first-hand observations during

> this period, Source III was able to report that Riniolo acts as Linda Ferguson's pimp and is the manager of the Ferguson operation, actually having contact with the prostitute in residence.

This information, standing alone, could not provide a basis for a finding of probable cause because it refers to a period of time more than a year prior to the date of the affidavit. Schoeneman v. United States, 317 F.2d 173 (D.C.Cir. 1963). However, this information was corroborated and updated by Sources I and II. Among other things, Source I said that he had been a customer of the Ferguson operation for two years. The address given as the residence of Riniolo and Ferguson by Source III is corroborated by the independent investigation of the FBI by surveillance as late as November, 1973. Moreover, Source III's information provides general background about the criminal activity of the defendants, and this may be considered by the Magistrate as one important element of probable cause. United States v. Tramunti, 513 F.2d 1087, 1101, n.19 (2d Cir. 1975), cert. denied, 423 U.S. 832 (citing United States v. Harris, supra, 403 U.S. at 583).

Source III's reliability is based on the fact that her information was corroborated, as set forth above;

that her statements were a declaration against interest, and that she testified to the same facts before a federal grand jury. In the affidavit, she is said to have admitted working as a prostitute for one week late in 1972. This declaration against interest carries its own indicia of credibility sufficient for a finding of probable cause. Harris, supra, at 853. The fact that Source III testified under oath before a federal grand jury may not of itself be a basis for credibility but, when her information is corroborated as it has been here, it may at least be considered as an indicia of credibility. See Jones v. United States, 416 F.2d 467, 473 (5th Cir. 1969), cert. denied, 397 U.S. 907 (1970). All of the above leads to the conclusion that the Magistrate was correct in finding Source III was reliable.

The defendant argues that even if there was probable cause, the warrants are defective because there was no connection shown between the items sought and the premises to be searched. This argument relies on the fact that none of the sources of information made reference to any personal observation of the items on the premises to be searched. This argument is without merit. Depending on the nature

of the crime and the items being sought, the connection may be made on grounds other than personal observation. United States v. Lucarz, 430 F.2d 1051, 1055 (9th Cir. 1970). It was entirely reasonable, under the circumstances of this case, for the Magistrate to conclude that the items sought were being utilized to carry out the illegal activity. United States v. Scharfman, 442 F.2d 1352, 1355 (2d Cir. 1971), cert. denied, 405 U.S. 919. Additionally, the description of the items was particular enough because

> [w]hen circumstances make an exact description of instrumentalities [of a crime], a virtual impossibility, the searching officer can only be expected to describe the generic class of items he is seeking. James, supra, at 473; United States v. Antenniello, 375 F.Supp. 418, 430 (S.D.N.Y. 1974).

Similarly, the defendant's argument that the warrants failed to adequately describe the premises must be rejected. The descriptions of the premises as Apartment 401, 200 Niagara Street, Buffalo, New York, and 329 Elmwood Avenue (Lower), Buffalo, New York, are sufficiently particular to meet the standard set forth in United States v. Steele, No. 1, 267 U.S. 498, 503 (1925), that it is

sufficient if the description is such that officers with a search warrant can with reasonable effort ascertain and identify the place intended. Furthermore, a description similar to the ones in this case was upheld in United States v. Gomez, 42 F.R.D. 347 (S.D.N.Y. 1967).

Therefore, for all of the aforesaid reasons, the court finds that probable cause for the search existed, and that the items were seized properly. The defendant's motion to suppress is denied.

So ordered.

John T. Curtin

JOHN T. CURTIN
United States District Judge

DATED: August 18, 1976

FOOTNOTE

1/ At the suppression hearing, the Government informed the defense that statements made by Source II subsequent to the execution of the search warrants were in conflict with the earlier statement she gave to Detective Sergeant Dayka. These subsequent statements were not introduced at the hearing nor was Source II called to testify. In United States v. Sultan, 463 F.2d 1066, 1070 (2d Cir. 1972), the court dealt with this issue and resolved it by stating: ". . . probable cause is not to be defeated because an informant is later proved to have lied, as long as the affiant accurately represented what was told to him."

The defense called Detective Sergeant Dayka as a witness at the suppression hearing and introduced his written report of his conversation with Source II. Sergeant Dayka stated that his written report was the basis for the information he conveyed to affiant Hawley. Affiant Hawley testified that everything he had put in the affidavit regarding Source II came from his conversation with Detective Sergeant Dayka and/or Dayka's written report of the arrest. While the written police report of the conversation with Source II is not reproduced in the affidavit, the two documents are not inconsistent. There was no showing at the hearing that the affiant made a reckless or intentional misstatement, or that either the affiant or Dayka knew that any of the information was false. The conflicts in Source II's statements, therefore, have no bearing on the finding of probable cause.

Buffalo, New York

Friday, October 15, 1976

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(A jury was duly impaneled and sworn.)

(Two alternate jurors were sworn.)

THE COURT: Mr. O'Keefe, you may make an opening statement on behalf of the United States.

MR. O'KEEFE: Thank you, Your Honor.

Good morning, Mr. McMoyer, Mr. Carney, ladies and gentlemen of the jury. I would like to introduce you to Mr. Richard Endler, who will be assisting me on the case.

The defendant, Salvatore Riniolo, is charged here with five different counts of violating the anti-prostitution laws of the United States. Most of these counts require that interstate facilities be used; that prostitutes be induced or caused to be traveled in inter-state commerce for purposes of prostitution.

I should tell you, and the Court will instruct you as a matter of law, that an Indictment is not evidence. It is merely the method by which the Government advises the defendant of the charges against him so that he may defend himself.

Now the first count alleges that between June 1st, 1972, and January 31, 1974, the defendant, Salvatore

Riniolo, conspired with one Linda Ferguson, Carol Barber, Betty Grand a/k/a "Sammie", Mamie Harris and Raymond Pandelli, who violate certain other laws of the United States.

Now, when you have a conspiracy, you are conspiring to violate some other laws of the United States, and particularly, other laws named here, Sections 1952, 2421, 2422, 2423 and 2 of Title 18 of the United States Code. And Riniolo is charged with agreeing with one or more of his co-conspirators to violate, so to speak, the anti-prostitution laws, and all these statutes refer to prostitution. Of course, these are not local violations, because all of the Federal laws require either the use of an interstate facility, such as the telephone, a bus, an airplane or actual traveling or causing someone to travel.

And then conspiracy is not complete until some overt act, some act is taken towards completing that conspiracy in furtherance of that conspiracy. Now that is the general charge.

The Indictment charges specifically that it was part of a planned conspiracy that Riniolo and one or more of the other named people would use facilities in interstate commerce or to travel or cause others to travel in interstate commerce to promote the business of

prostitution and that said business of prostitution was in violation of other laws of the United States and/or of the State of New York, and that once an interstate facility was used or the interstate travel caused, Riniolo or any one or more of the other named co-conspirator would perform or attempt to perform some other acts in furtherance of the business of prostitution.

Under Count 1 again, the conspiracy count, the Indictment specifically charges that the defendant, Salvatore Riniolo, together with one or more of the other named co-conspirators, conspired to transport women, or caused women to be transported, in interstate commerce for purposes of prostitution, debauchery, and other immoral purposes.

The conspiracy count then specifically alleges that Salvatore Riniolo, together with one or more of the other named co-conspirators, did conspire, induce, entice, and cause women and girls to travel in interstate commerce for purposes of prostitution, using common carriers such as airplanes, buses and trains.

And finally, the conspiracy count specifically alleges that Salvatore Riniolo, together with one or more of the other named co-conspirators, conspired to induce, entice or coerce a female under the age of eighteen to travel by a common carrier in interstate

DIRECT EXAMINATION

BY MR. O'KEEFE:

Q Mr. Holmes, can you tell us where you are employed, sir?

A I am a Special Agent with the FBI. I am presently assigned to Headquarters, Washington, D. C.

Q How long have you been so employed, sir?

A Approximately eight years.

Q And directing your attention to January of 1974, were you at that time employed in the Buffalo Office of the FBI?

A Yes, sir, I was.

Q And on the 21st of January of that year, were you assigned to conduct a search?

A Yes, sir, I was.

Q Mr. Holmes, I show you what has been marked for identification as Government's Exhibit 1, and I ask you if you can identify that for us, please?

A Yes, sir. This is a search warrant for the premises located at 829 Elmwood Avenue.

MR. NE MOYER: Your Honor, I object.

THE COURT: Sustained.

MR. NE MOYER: Thank you, Judge.

MR. O'KEEFE: Could I know what the basis of the objection is?

THE COURT: Will counsel approach the side bar.

MR. NE MOYER: All right. I have no other questions.

THE COURT: Anything else from this witness?

MR. O'KEEFE: No further questions.

(Witness excused.)

MR. O'KEEFE: I would like to recall Ronald Hawley.

THE COURT: Mr. Hawley, you are reminded that you have already been sworn in this case and you remain under oath at this time.

Go ahead, Mr. O'Keefe.

R O N A L D L. H A W L E Y,

recalled as a witness by the Government, having previously been sworn, testified further as follows:

FURTHER DIRECT EXAMINATION

BY MR. O'KEEFE:

Q Mr. Hawley, you have already testified about the original two tapes which are Government's Exhibits 14 and 14-A, and about the transcripts thereof which you caused to be made, Government's Exhibits 22 and 22-A.

Now I show you Government's Exhibit 23, and I ask you if you have had that available to you to listen to?

A Yes, I have.

Q And I show you Government's Exhibit 24, and I ask you if

FURTHER CROSS EXAMINATION

BY MR. NE MOYER:

Q Mr. Hawley, I understood you to say you heard several different female voices on that tape?

A No, Mr. NeMoyer. I said there were several different voices on the composite.

Q Did you recognize any of these female voices, sir?

A Yes.

MR. NE MOYER: Thank you. I have no further questions.

(Witness excused.)

B E T T Y J. G R A N D,

called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. O'KEEFE:

Q Mrs. Grand, can you tell us where you reside?

A Pittsburgh, Pennsylvania.

Q Mrs. Grand, are you known by any other name but that of Betty Grand?

A Yes. My nickname is Sammy.

Q "Sammy"?

A Yes.

Q How long have you been known by the name of "Sammy"?

A Since I have been about five, six years old.

Q Referring to approximately mid-December of 1973, how were you employed at that time, Mrs. Grand?

A I was a madam.

Q You were a "madam"?

A Yes.

Q You were running a house of prostitution?

A Yes, I was.

Q Where were you running that house of prostitution?

A In Pittsburgh.

Q Pittsburgh, Pennsylvania?

A Yes.

Q Referring to that same time, mid-December of 1973, did you have occasion to have a series of telephone conversations with someone in Buffalo, New York?

A Yes, I did.

Q And who was that that you had these conversations with?

A Ginger.

Q Was that a woman?

A Yes.

Q Did you come to find out that Ginger was known by any other name?

A Yes.

Q What other name was Ginger known by?

A Linda -- I can't remember the last name -- well, Ferguson.

Q Linda Ferguson?

A Yes.

Q How did you happen to know Linda or "Ginger"? How did you come to know her?

A She called and introduced herself to me.

Q Have you ever met her personally?

A No.

Q So she called you over the telephone in Pittsburgh and introduced herself, is that correct?

A Right.

Q Do you know how she got your telephone number?

A I believe it was through a madam in Wilkes-Barre, Pennsylvania, Lisa.

Q A madam in Wilkes-Barre by the name of "Lisa"?

A Yes.

Q Did you have occasion to check with that madam?

A I believe I called her to verify it, yes.

Q Why would you call to verify this?

A Well, I didn't know who I was talking to. She could have been anybody. She could have been a police officer.

MR. NE MOYER: Your Honor, I object to --

THE COURT: You are a little late, Mr. NeMoyer. I will strike it out. The jury will disregard the last part.

MR. NE MOYER: I just didn't want any --

THE COURT: No speeches. I will sustain the objection, but you have made it too late.

The jury will disregard what the operation of the witness' mind was or why she called Lisa.

Q Did Linda call for purposes of the business of prostitution?

A Yes.

MR. NE MOYER: Your Honor, I object also to him asking this witness what was in the mind of somebody else.

THE COURT: I will sustain the objection. Strike it out. However, the witness may give the conversation which she had with this person who called her on the telephone and introduced herself as Ginger, and that I will take, subject to connection, and you may have an objection, and I will reserve a motion to strike.

Q Can you tell us who originated the series of telephone calls on December 3?

A Well, the calls started before then, and that was when she called and introduced herself to me as Ginger, and the purpose of her call was that she was short of girls

and asked me if I knew anybody that would be interested in working for her.

Q By "girls," do you mean prostitutes?

A Yes.

Q During these calls which you testified took place in mid-December, 1973, did you have occasion to talk about a girl named "Vickie"?

A Yes.

Q And can you tell us what you said to Linda, or Ginger, and what she said to you about Vickie?

A I can't remember word for word, but I can give you the phone calls as close as possible. In our call about Vickie, we were talking about what a good worker she was. And I said to her, "How is my Vicki," because this is how I referred to any girl whoever worked for me, and the conversation was -- well, there were several conversations over Vickie, because she had owed me some money that I had lent her personally, and one of the calls was concerning her collecting the money that Vickie owed me for personal items. Another call was to tell me what a tremendous worker she was, and I agreed and said, "Yes." I believe after that she even called me to see if she could get Vickie back, and I said, "Well, you know, if she comes around or if she calls me, I will ask her to re-book in with you."

Q Was Vickie working for Linda at that time in Buffalo?

A Vickie worked for me the first week in December, and then she went to another place in Pittsburgh, and then --

MR. NE MOYER: Your Honor, I object to him asking this witness what somebody else was doing in Buffalo, if she is not there to see it or hear it herself.

THE COURT: That is a matter for cross-examination as to whether she knows. The witness may only be asked what she knows. If she had a conversation with Linda or Ginger, that may be elicited subject to a motion to strike, and subject to connection.

Q Was Vickie known by any other name?

A Vickie's first name was Crystal. I have no idea what her last name was.

Q To the best of your knowledge, where was Vickie from?

A Well, I would assume from talking to her that she was from Cleveland.

MR. NE MOYER: Your Honor, I object.

THE WITNESS: And then after that --

THE COURT: Wait a minute.

MR. NE MOYER: I will object to any assumption.

THE COURT: I will strike out the assumption. The jury will disregard the wit-

ness' assumption.

Q Do you know, in fact, where she was from?

A Yes, sir. Eventually, I found out she was from St. Louis, Missouri.

Q Did you have occasion to see Vickie prior to her going to Buffalo?

A Yes, I did. She come over to explain to me that she didn't have the money to pay me, and she was going to Ginger, and she would arrange with Ginger to send me my money, and that is how one of the phone calls were involved.

Q Mrs. Grand, can you tell us how long you were a madam?

A Several years.

Q In the course of being a madam, did you ever hear the term "trick"?

A Oh, yes. It is very common.

Q Can you explain for us what the term "trick" means?

A The term "trick" is considered a customer that comes to a house of prostitution, selects a girl, goes in the bedroom with him, and the act of committing sex is considered turning a trick.

Q So a "trick" is used in two different ways?

A A "trick" is used to classify the customer as a trick.

Q You know what the word "madam" means?

A Keeper of a house.

Q Do you know what the word "pimp" means?

A Can I open it?

Q Yes, please.

A Yes. This is the tape I listened to.

Q Now the conversation we referred to earlier between you and a woman that is known as Ginger, or Linda, relative to Vicki, did you hear that conversation on the tape recording?

A Did I hear that particular conversation?

Q Yes.

A Yes.

Q And did you recognize your own voice?

A Yes, I did.

Q Did you recognize the voice of the person that you had known as Linda, or Ginger?

A Yes.

Q With regard to Linda, or Ginger, did you ever refer any other girls to her for purposes of prostitution?

A I passed her number on to several girls.

Q Can you give us an estimate of the number of girls you referred?

A I would estimate thirty to forty girls.

THE COURT: You gave Miss Ferguson the names of thirty or forty girls?

A No, I didn't give Miss Ferguson anything. I gave the girls the number.

clothes on his back.

THE COURT: Go ahead, Mr. O'Keefe.

DIRECT EXAMINATION CONTINUED

BY MR. O'KEEFE:

Q Do you know of any terms that prostitutes might use to refer to their pimp other than "pimp"?

A Sure. Some of them call their pimp "Sugar Daddy," and some of them call them, "my friend," but the most known words for a pimp is "my old man."

Q In talking to Miss Ferguson over the phone, did she ever make that reference to you?

A Oh, yes.

Q That she, in fact, had an "old man"?

A Yes, definitely.

Q Did she ever give you his name?

A I can't honestly remember. I think it was mentioned once in all of our conversations in all of the time that I talked to her. Most of the time it was like "my old man," or, you know, "my friend." "You know who I mean," referring to her "old man."

C9 Q Did she ever use a name?

A I can recall once.

Q And what was that name?

A All she ever said was "Sal."

MR. O'KEEFE: Thank you. I have no

stand by and come back at 2:15, please.

(Witness temporarily excused.)

THE COURT: Call the next witness, Mr. O'Keefe.

MR. O'KEEFE: I call as my next witness Flora Elaine Burkhart Majusick.

F L O R A B U R K H A R T M A J U S I C K,

called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. O'KEEFE:

Q Mrs. Majusick, where do you reside?

A At Route 4, Box 217, Crescent Road, Saint Clairsville, Ohio.

Q Did you reside there in the spring of 1972?

A Yes, sir.

Q Directing your attention to approximately April and May of 1972, did you have occasion to travel to Buffalo, New York?

A Yes, sir.

Q And how did you get to Buffalo, New York, from Ohio?

A By bus.

Q Do you recall what bus you took?

A Greyhound.

Q Greyhound bus?

A Yes.

Q What was your purpose for coming to Buffalo?

A For the purpose of prostitution.

Q For the purpose of prostitution?

A Yes.

Q For whom were you to work in Buffalo?

A Linda Ferguson.

Q And how did you arrange this employment from Miss Ferguson?

A By telephone -- a friend gave me her name, and I called her and made a booking.

Q Can you tell us what the term "booking" means?

A Well, I called her to find out if she would use me. That is a booking.

Q Did she, in fact, book you, then?

A Yes.

Q And for what period of time did she book you?

A One week.

Q For one week?

A Yes.

Q Did you bring anything with you this morning?

A (No response.)

Q Did you bring a book with a telephone number in it?

A No, I forgot it, but I brought the picture.

Q All right. Just hold onto it.

A Okay.

Q Do you recall what your phone number was in Ohio?

A The area code also?

Q Yes.

A Area Code 614-546-3874.

Q I show you what is marked Government's Exhibit 26 in evidence, and I refer you to Page 6, and I ask you if, in fact, that number in Adena, Ohio, is your number?

A Yes, sir.

Q And the top of this page says, "August, '72," is that correct?

A Yes, sir.

Q When you got to Buffalo by Greyhound bus, where did you go?

A Well, I caught a cab and went to the house that she occupied.

Q Do you remember what street that house was on?

A Elmwood, I think.

Q And do you recall what the number of the house was?

A I think it was 829.

Q 829 Elmwood Avenue?

A Yes.

Q And that was in Buffalo, right?

A Yes, sir.

Q And at that point did you meet Miss Ferguson?

A Yes.

Q And did you have a discussion with her?

A Yes. She explained the business to me and things like that.

Q Did you discuss prices that would be charged?

A Yes, sir.

Q And what did she tell you the prices were?

A At that time I think it was twenty and up.

Q Twenty and up?

A Right.

Q Did she discuss what the split would be with you?

A Fifty-fifty.

Q You split it right down the middle?

A Yes, sir.

Q Did she charge you anything for board and room?

A No, sir, not that I remember.

Q You worked for Linda Ferguson for one week, is that correct?

A Yes.

Q Did you work for her on any occasions thereafter?

A Yes, sir. I worked for her a total of three times.

Q And each time would it be for a week?

A Yes.

Q Was there one time when she wanted you to work two weeks?

A Yes. That was the last time I was there.

Q Why didn't you work the two weeks?

A Money was bad, and I felt like I could do better elsewhere.

Q Did she have another girl working for her at that time?

A Yes. There was two girls, myself and another girl.

Q And you felt there wasn't enough work for the two girls?

A Yes, sir.

Q Can you recall approximately the last time you worked for Linda?

A The last time was July 24th, 1972.

Q Why do you recall that particular day?

A Well, because it was my birthday. I just turned twenty-six, and she had a birthday party for me.

Q Did anything happen at that birthday party?

A Well, I have a picture here that was taken of myself and her mother and her daughter.

Q And this picture, which I am going to mark Government's Exhibit 28, is a picture of yourself?

A Myself, Linda's mother and her daughter.

(Government's Exhibit 28 marked for identification.)

Q And is there some writing on the back of it?

A Yes, sir. It says, "Linda's mother and Kim." That is her daughter, and it just says, "My party."

THE COURT: Can you step up to the bench for a moment, please?

(Off-the-record conference at the bench.

(In open court.)

DIRECT EXAMINATION CONTINUED

BY MR. O'KEEFE:

Q Now after the first time you worked for Linda for a total of three times, is that correct?

A Yes.

Q And each time for a week?

A Yes.

Q After the first occasion that you worked for her, who set up the second occasion? Did she ask you, or did you ask her?

A That is a little hard to remember. Well, the way it goes, you know, like you ask, "Would you like for me to come back?" And if she was satisfied with your work, then she would say, "Yes," and then she would give you another booking.

Q After July of 1972, did Linda call you at any time thereafter and ask you to come to work for her?

A Yes, sir.

Q You didn't work for her after that?

A No.

Q Did Linda know where you lived?

A Yes, sir, she did.

Q How did she know?

A She had my telephone number at my mother's, at home.

Q Do you know what a "trick" is?

A Yes, sir.

Q When a "trick" called the house at 829 Elmwood Avenue, could you tell us what took place at that time?

A Well, she would tell him what time to come over, and then she would usually tell us, you know, how much he would spend and what kind of a party he would get.

Q While you were here in Buffalo, did you have occasion to meet Sam Riniolo?

A Yes.

Q Do you see him here in the courtroom?

A Yes, sir.

Q Would you point him out, please?

A He is the gentleman in the middle.

MR. O'KEEFE: Let the record reflect that the witness has identified the defendant.

THE COURT: The record will so indicate.

Q When you were having these conversations with Linda about the trick and coming over and the price and all, was Sam ever present?

A Yes. At that time Sam was there practically all the time.

Q You say "practically all the time." Did he sleep there?

A On occasions.

Q Was he there each evening or each morning or what?

A Well, most of the time he was coming in the latter part

of the afternoon until, you know, we closed, and sometimes he would stay all night, and then other times he would go home.

Q Now you say he would stay all night? He would stay with Linda?

A Yes.

Q When you first met Sam, how did Linda introduce him to you?

A She said that was her old man.

Q Did that term have any significance to you?

A Yes. To me, that is her man, her pimp. That is her "people," you know.

Q When it came time to depart Buffalo, what arrangements did you make to get back to Ohio?

A Well, like the night that I was going to leave, I would call the bus terminal and find out what time the next bus would be leaving for Wheeling, West Virginia.

Q And that is the closest point to your place?

A Yes.

Q Was Sam ever present when you called the bus company for your reservations?

A Yes, sir.

Q Let me ask you this. How much money did you make the first time you were up here?

A It is kind of hard to remember, but I think, you know, like it was an average of, like, three hundred a week.

Q Three hundred a week?

A Yes.

Q Would that mean that Linda also got three hundred?

A Yes, sir.

Q How about the second time, or did each time average three hundred?

A No. The last time I was here, and like I said, money was very bad, and that is why I wanted to leave.

Q Linda would get half of this and you would get half, right?

A Yes, sir.

Q Did Linda own a car?

A No, sir.

Q Did Linda have nice clothes?

A No, sir.

Q Do you remember an incident about clothes?

A Yes, sir.

Q Would you tell that to us, please?

A Well, the house that Linda occupied had been sold, and she had to go and see about an apartment. And she borrowed my clothes and some of my jewelry so she would look presentable, because the building that she was going to was a high-class building, you know, a very nice building, and she wanted to look presentable.

Q Did Linda have enough money to run the basic expenses of

the house?

MR. NE MOYER: Your Honor, I'm going to object.

THE COURT: Sustained.

THE WITNESS: Sometimes.

THE COURT: I have sustained the objection to that question.

THE WITNESS: Okay.

Q Do you recall a morning that Linda did not have enough money to buy groceries?

A Yes, sir.

Q And on the evening prior had you given her money which, in fact, came from your tricks?

A Yes, sir.

Q How much money had you given her the evening before?

A I can't remember, but, you know, like it was about fifty dollars, you know, her end.

C10 Q Let me ask you this. Did Sam Riniolo have a car?

A Yes, sir.

Q What kind of a car did he have?

A A big Cadillac.

MR. O'KEEFE: No further questions.

THE COURT: At this point, members of the jury, we will recess, and we will resume the trial about 2:15. Now don't dis-

Q In your knowledge of the business, do pimps have sexual relationships with other girls other than the girls working for them? Do you know?

A Yes.

Q They do?

A Yes, they do.

Q And you don't work girls or with with girls that have pimps, if you know about it, do you?

A I have always shied away from the fact because I don't like a pimp. I have no use for a man that is a leech upon a woman.

Q Did you testify on direct that the term "old man" means a pimp to you?

A Exactly. It doesn't mean "husband."

Q And you said that Giner used that term to you, right?

A That's correct.

Q Did you have a pimp?

A No, I have never had a pimp.

Q I refer to Page 24 on Line 9, and do you recall your testimony there?

A Yes, I do.

Q And isn't it true that you, at least three times in that answer, you used the term "my old man's birthday," and "my old man"?

A That was my legal and lawful husband, and I picked up the

terminology of "old man" from being in the business. My husband was not a pimp and was in no way, shape or form connected with this business.

Q So then will you agree, Mrs. Grand, that the term "old man" might have a connotation other than pimp?

A When it refers to this business, no. I disagree, because you could call your father "old man," but that has nothing to do with the business of prostitution.

Q Do you agree that, at least three times on Page 24, you used the term "my old man," and you weren't referring to your pimp?

A That's correct, because I have never been a prostitute. I have never supported any man and never will.

Q Did you also testify on direct that Linda used the name "Sal" in reference to her "old man"?

A Yes.

Q Would you look at Page 27, Line 20?

C11 A (Witness complies.)

Q Starting on Line 20 and going through to the top first three lines of the next page, isn't it a fact that you then, in front of that Grand Jury, stated, "I don't think Ginger ever even said his name to me"?

A That's correct, but you see, I talked to Ginger after this Grand Jury statement was taken.

Q You talked to her after February 7th?

THE COURT: Government's Exhibit 28 will be received in evidence.

(Government's Exhibit 28 received in evidence.)

Q Miss Majusick, you are aware that Linda Ferguson had a young daughter?

A Yes, sir.

Q And you were aware that she was keeping and supporting that daughter, were you not?

A Who was keeping and supporting her daughter, I really don't know. I know that her daughter lived with her mother.

Q Were you aware that she was also supporting her mother?

A No.

Q You say you worked for Miss Ferguson on at least three occasions?

A Yes, sir.

Q And tell this jury how you got along with Miss Ferguson?

A We got along quite well.

Q Did the defendant, Mr. Riniolo, ever ask you to turn a trick?

A How do you mean did he ever ask me to turn a trick?

Q Did he ever ask you, "I want you to have sex with Joe Smith"? Or did he ever say, "I'm sending Joe Smith over, and get some money off of him"? Did he ever ask you

anything of that nature?

A No. He was there, you know, when this was going on.

Q He never asked you to do anything, did he?

A No.

Q Did he ever ask you to come to Buffalo? Did he talk to you on the phone and ask you to come to Buffalo?

A When I talked, it was to Linda.

Q Now who did you give your money to?

A Linda.

Q And would she then, at the end of the week, count it out and split it up with you?

A No. It was every night.

Q Every night?

A Yes.

Q Do you know where she put her money, physically?

A No. I don't have no idea where she kept hers.

Q Do you know Mamie Harris?

A Yes.

Q Do you know that Mamie Harris was in business with Linda Ferguson?

A How do you mean "in business with Linda"?

Q Do you know Mamie Harris is a madam also, don't you?

A Yes.

Q And that she had a business here in Buffalo?

A Yes.

A '72.

Q '72?

A Yes.

Q Were you aware that that was a 1969 Cadillac?

A Well, I'm not familiar with Cadillacs, but I know it was a big Cadillac, and it looked new to me.

Q You don't know one way or the other, then, what year it was?

A No, sir.

Q Did you ever have sex with Mr. Riniolo?

A No. That was Linda's old man, and she used to get very jealous, and the girls had to watch what they wore around him because she would get jealous, and, you know, in the middle of the night, you may have to pack and leave.

Q She liked him, didn't she?

A She was madly in love with him.

Q Did you know that Mr. Riniolo was in the sound equipment business?

A No, but I knew that he knew how to fix an intercom system, you know, from one room to the next, where he could hear what was going on in the next room.

Q Did he ever sell you any radios or tape decks?

A No.

Q Nothing of that nature?

A No.

THE COURT: You can treat stipulations of counsel with the same force and effect as if testimony to the effect of the stipulation had been received. It constitutes evidence in the case. It is a procedure which is permitted in order to save time from having these witnesses actually come in and take the oath and say that they can identify Mrs. Ferguson or demonstrate that they can by bringing her in and showing her to them and letting them say whether she is Mrs. Ferguson or not. You may so regard it.

All right. Bring in the next witness.

(Government's Exhibits 28-A and 29 marked for identification.)

R I T A B U R C H I L L,

called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'KEEFE:

Q Miss Burchill, can you tell us where you were residing in December of 1972?

A In Warren, Ohio.

Q How old were you at that time?

A Sixteen.

Q Can you give us your place and date of birth?

A Glencoe, Minnesota, February 26, 1956.

all your money to.

Q You say you give all your money to him?

A You work for him.

Q Where do you get this money that you give to him?

A You work for it.

Q What kind of work?

A Prostitution.

Q How did Raymond Pandelli come to be your pimp?

A I was working in a diner in my town where I was from, and I met a guy who later on took me to Pandelli.

Q Then did you and Mr. Pandelli reach an agreement?

A Yes.

Q And you became a prostitute, and he became your pimp?

A Yes.

Q Was Mr. Pandelli known by any other name?

A "Chicago Louie."

Q "Chicago Louie"?

A Yes.

Q What was the purpose of this trip to Buffalo, New York?

A I was to work for Linda Ferguson up here for one week.

Q And, once again, that was as a prostitute?

A Yes.

Q How was this trip arranged?

A She called, and then she called again, and then called again while we were gone, and we both talked to her later on.

Q There were three phone calls to Warren, Ohio, is that correct?

A Yes.

Q She called him; she called while he was gone; and she called the third time?

A Yes.

Q Now on the third occasion, did you have occasion to speak to Mrs. Ferguson?

A Yes.

Q And did Mr. Pandelli also have occasion to speak to her?

A Yes.

Q What did she say to you, and what did you say to her?

A We just introduced ourselves, and I asked her what kind of clothes she wanted me to bring, and we were looking forward to meeting each other.

THE COURT: Did you go by any other name, professionally or otherwise?

A Yes.

THE COURT: What name did you use?

A Mitzi Hill.

Q Where did you get that name "Mitzi Hill"?

A From Randy Pandelli.

Q Do you recall the address where you were staying in Warren, Ohio?

A 116 Atlantic Avenue.

Exhibit 11, Page 2, and I ask you to look at the bottom of the first paragraph and see if that helps you recall the phone number?

A That is the phone number at the Atlantic Avenue address.

Q What is that phone number?

A Do you want me to read it?

Q Yes.

A 354-4735.

Q Miss Burchill, directing your attention down to the last paragraph, the fifth line, would you look at that and see if that helps you refresh your recollection?

A That is the farm telephone number.

Q What is that number?

A 847-8289.

Q Did you, in fact, take this trip to Buffalo?

A Yes.

Q And where did you go when you got to Buffalo?

A To 829 Elmwood.

Q 829 Elmwood?

A Yes.

Q Whose residence was that?

A Linda Ferguson's.

Q Was that "Upper" or "Lower"?

A "Lower."

Q At that time you were using the name Mitzi Dole, is that

correct?

A Yes.

Q Who did you meet when you got to 829 Elmwood?

A Mamie.

Q Mamie?

A Yes.

Q Can you describe Mamie for us?

A She is a Negro, an older woman.

Q What was her profession?

A She was a madam.

Q She was a madam?

A Yes.

Q Did she tell you what she was doing there at that point?

A She said that her house had gotten busted and that she was helping Linda in her business, or something like that.

Q Did you then have occasion to meet Linda Ferguson?

A Yes.

Q Can you tell us what she said to you at that time and what you said to her?

A We just introduced ourselves, and she had gotten groceries and had brought them into the kitchen, and we ate supper, and that is all I can remember.

Q Did you have a conversation relative to your prostitution activities?

A Later on in the evening.

C13

Q Would you tell us what she said to you at that time and what you said to her?

A She explained to me that her customers had to call first, and then if she wanted them to come over, then she would tell them to come over, and in that way, she would know who was there or who was at the door.

Q Did she tell you anything about prices?

A Well, after they had called and she would tell me how much each one was. She said each one was different.

Q Did she tell you what the split would be?

A Half.

Q "Half" for you?

A Yes.

Q And half for Linda?

A And half for Linda.

Q How long did you stay at 829 Elmwood Avenue?

A One week.

Q During the time that you were at Elmwood Avenue, did you meet the defendant, Salvatore Riniolo?

A Yes.

Q Could you point him out for us, please?

A Yes. He is sitting right over there.

MR. NE MOYER: I had a previous objection regarding identification, but I won't go into it in front of the jury.

THE COURT: All right. I will take care of that when I let the jury go for the day.

MR. NE MOYER: All right, Judge.

THE COURT: The record may show that she pointed out the defendant.

Q And when did you meet Mr. Riniolo?

A A couple of nights after I was at Linda's.

Q How many times did you see him during the week that you were there?

A Maybe three or four times in the evening.

Q He was mostly there in the evening?

A Yes.

Q Did Linda ever show you any customers' cards that she had there?

A I just saw the file cards.

Q Did you have occasion to look at those cards?

A No.

Q When these customers would call up, where was the phone in the house?

A Looking at the couch from where I am at, it was on the right-hand side, on the end table.

Q Were you ever there when the customers called up?

A Yes.

Q Was Mr. Riniolo ever there when the customers called up?

A I don't remember.

Q You can't recall?

A No.

Q Did you ever talk to Linda Ferguson about Raymond Pandelli?

A Yes.

Q Can you tell us about that?

A It was one night that Sam and Linda asked me --

MR. NE MOYER: Your Honor, if she has any conclusions, I wonder if she could say who said what.

THE COURT: Give the substance of the conversation as best as you recall.

A Sam, I remember, asked me how big Pandelli was and --

MR. NE MOYER: Your Honor, I object. Two people can ask the same question.

THE COURT: I don't say it is impossible, but I would like you to tell us who asked the question, in the presence of whom, and the substance of what was said.

Q The best that you can recall, tell us what Sam had said to you and what you might have said to him and what Linda might have said to you and what you might have said to her?

A Linda asked me if Raymond Pandelli was a big-time operator, you know, like how many girls he would have. And I said,

"Maybe twenty-five or thirty," and that he was, you know, a big-time operator. He had a lot of girls.

Q Was that true?

A No.

Q Why did you tell them that?

A Because I wanted to build him up because the last place I worked I flubbed it all up, and he was getting upset with me, so I thought I better build him up.

Q Did Linda at that time mention to you anything about the age of the girls that Pandelli was using?

A Linda had said that she heard he had mostly under-aged girls, and she kept asking me all the time I was there if I was twenty-three.

Q What did you tell her?

A I told her I was.

Q But she also had said she knew Pandelli used under-aged girls?

A Yes.

Q During this conversation, was it made clear that both you and Mr. Pandelli were from Ohio?

A Yes.

THE COURT: What did you exactly make clear? How did you make it clear?

A We had talked to her from Ohio. She knew we were driving up from Ohio. She knew when we were arriving.

THE COURT: All right.

Q Just prior to your leaving, was there a small Christmas party?

A Yes.

Q Will you tell us about that, please?

A Linda and her daughter and Sam and I had exchanged a gift from the little girl. Linda and the little girl had a present for me, and Linda had one for Sam.

Q Do you recall what present Linda gave to Sam at that time?

A No, I don't.

Q Had she discussed this present with you?

A Yes.

Q Can you tell us what she said?

A During the week I had worked there, she had asked me if it was all right if she turned a few tricks, because she wanted some money so she could hold out on Sam, to get a Christmas present, something that he didn't know about.

Q That she was holding out some money on Sam?

A Yes.

Q Did there come a time when Sam ever talked to you about your earnings while you were in the house?

A The night before I left, Linda and Sam were sitting on the couch going over the books, where they keep track of everything, and when she divided it all up and took out room and board, and she told me what I had coming, and

she told me that that wasn't bad, and Sam said, "That is not bad for a slow week."

Q Let me ask you this. Did Linda have a car?

A No.

Q Did she have nice clothes?

A I hadn't seen any.

Q Did she have money?

A I didn't see any. No, I didn't see any.

Q Did Sam have a car at that time?

A Yes.

Q Do you recall what kind of a car he had?

A A Cadillac.

Q Was there an occasion while you were here that there was an ice skating party?

A It was slow one day, and Linda asked me if I wanted to work, and I said, "Not really." So we went and got her little daughter, and we went uptown, and she had turned a couple of tricks, and I had turned a couple of tricks, and she used that money to get some ice skates that she was going to keep for herself or give to a girlfriend or something for Christmas.

Q Can you tell us what arrangement you made to return to Ohio?

A I called the airport to find out when the flight was going to leave for Cleveland, and I think Mamie and I went uptown

to get the ticket.

Q Did you then have occasion to place a call to Mr. Pandelli?

A Yes.

Q Was anyone present when you placed that call?

A Linda.

Q And did you, in fact, then fly back to Ohio?

A Yes.

Q Can you tell us what happened when you got to Cleveland?

A Raymond and his bodyguard was there to pick me up, and which I lied and said I was going to arrive an hour late.

MR. NE MOYER: Your Honor, I object to anything that was going on after she arrived.

THE COURT: Yes. I think after she arrived in Ohio on her way back home, I would sustain the objection to that unless it if offered to show that Ferguson or the defendant were there.

MR. O'KEEFE: Your Honor, can I have a side bar conference?

THE COURT: I will excuse the jury briefly and hear the argument on that point.

Members of the jury, please withdraw to the jury room.

(The jury left the courtroom.)

THE COURT: What is offered to be shown?

A Yes.

Q And there is a reference here to Exhibit 28A, your birth certificate?

A Yes.

Q Linda never saw that birth certificate, did she, Linda Ferguson?

A No.

Q Nobody ever saw that here in this area, did they?

A No.

Q Were you treated well by Linda Ferguson?

A Yes.

Q You went out with her socially?

A Yes.

Q Did Linda Ferguson ever tell you that you were crazy to work for a pimp?

A Yes.

Q Did she advise you to leave your pimp?

A She told me that I would do better by myself, but at the time I was too scared to even listen.

Q Did she tell you that any girl is crazy to go out and work and give the money to a man, or words to that effect?

A She just told me that I could make more on my own.

Q She told you that you didn't need a pimp, didn't she?

A Yes. Like I say, I was too scared to even listen to her.

Q You subsequently left that fellow, whoever it was, Pandelli?

Q You don't know one way or another?

A No.

MR. NE MOYER: I have no other questions.

THE COURT: Anything else for Miss Burchill?

MR. O'KEEFE: No further questions.

(Witness excused.)

E L L Y N C A M I E L,

called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. O'KEEFE:

Q Miss Camiel, directing your attention to September of 1973, did you have occasion at that time to call Linda Ferguson in Buffalo, New York?

A Yes, I did.

Q And where had you gotten her number?

A Through a girl in Boston named Carol Williams.

Q And what was Carol Williams' business?

A She was a madam.

Q She was a madam in Boston?

A Yes.

Q Did you, in fact, call Linda Ferguson?

A Yes, I did.

Q Could you tell us what you said to her and what she said to you at that time?

A Okay. I told her that I was a friend of Carol's, and I asked her if she needed anybody to work, and she said, "No," at the time.

Q Did there come a time shortly thereafter when you received a phone call from Linda Ferguson?

A Yes.

Q Can you tell us what she said to you and what you said to her at that time?

A Okay. She called me and asked me if I was still interested in working, and I said, "Yes."

Q Did you arrange to come to Buffalo and work for her?

A Yes, I did.

Q How long after your original phone call was that?

A Say about two weeks or a week and a half.

Q So the original phone call was in September, '73. Can you tell us when you actually came to Buffalo, then?

A I think it was either the end of September or the beginning of October.

Q When you came to Buffalo, how long did you work for Miss Ferguson?

A Two weeks.

Q And how did you get to Buffalo?

A I took a plane.

Q You took a plane?

A Yes.

THE COURT: From where?

A From Boston.

Q When you got here, can you tell us what you did?

A You mean after I got off the plane?

Q Yes.

A I took a cab to Linda's apartment.

Q To Linda's apartment?

A Yes.

Q Do you recall where that apartment was located?

A Niagara Street.

Q Niagara Street?

A Yes.

Q How long did you work for Linda?

A Two weeks.

Q Two weeks?

A Yes.

Q What was the split between you and Linda?

A Fifty-fifty.

C15 Q Can you tell us if there was a telephone in this apartment?

A Yes.

Q Was that an extension to Linda's telephone in her home?

A Yes.

Q Can you tell us how things worked when you were in the

apartment?

A Okay. Linda would get a phone call, and it would ring in my apartment, the apartment that I was in. And I picked it up and would hear what was said on the other line, so I would know who was coming over.

Q And so you would overhear the conversation between Linda and the customer?

A Yes.

Q And you would know who was coming over and when to expect them, is that correct?

A Yes.

Q I show you Government's Exhibit 19, and I ask you if you have ever seen this before?

A Yes.

Q And where did you see this?

A In Linda's apartment.

Q In Linda's apartment, right?

A Yes.

Q And these are, apparently, instructions to the girls, right?

A Yes.

Q It says, "On Wednesdays and Saturdays I want the floor to be washed and the kitchen kept clean," et cetera?

A Yes.

Q Can you recall how much you made during the two weeks you

were here in Buffalo?

A It was approximately four hundred dollars.

Q And that would mean that you got four hundred dollars and Linda got four hundred dollars?

A Yes.

Q While you were in Buffalo, did you have occasion to meet Sam Riniolo?

A Yes, I did.

Q And do you see him here in the courtroom?

A Yes, I do.

Q Would you point him out?

A The gentleman in the middle (pointing).

Q The gentleman in the middle?

A Yes.

MR. O'KEEFE: Let the record reflect the witness has correctly identified the defendant.

THE COURT: The record may so reflect.

Q And how many times did you meet Mr. Riniolo while you were in Buffalo?

A Twice.

Q Twice?

A Yes.

Q Can you recall what the occasions were?

A I met him once over at Linda's house, and to the best of

my recollection, I met him another time, and it was outside of the apartment.

Q Was Mr. Riniolo introduced to you?

A Yes.

Q Who introduced him?

A Linda.

Q And did she tell you who he was and what their relationship was?

A No. She just introduced him to me as "Sam."

Q Just "Sam"?

A Yes.

Q Have you ever heard the word "pimp," Ellyn?

A Yes, I have.

Q What is a pimp?

A A pimp is someone who lives off a woman, who lives off of their earnings.

THE COURT: Lives off of what?

A Their earnings.

Q Have you ever heard the term "my old man" used?

A Yes, I have.

Q Do you know what that means?

A A boyfriend.

Q Does it mean "boyfriend"?

A It would mean boyfriend or husband.

Q Have you ever heard it used in terms of a pimp?

A Occasionally.

Q Have you ever heard other girls refer to their pimp as "my old man"?

A Yes.

MR. NE MOYER: I will object to it, Your Honor.

THE COURT: Frame another question.

MR. O'KEEFE: I have no further questions.

CROSS EXAMINATION

BY MR. NE MOYER:

Q Miss Camiel, did you during that period of time have a pimp yourself?

A No, I did not.

Q Were you supporting someone?

A No, I was not.

Q Just yourself?

A Yes.

Q Who met you when you came here to Buffalo?

A Nobody.

Q And you went to a certain address?

A Yes.

Q Did you meet a Mamie Harris at that address, do you recall?

A No, I didn't.

Q Who handled all of your arrangements for dates?

A Linda.

Q Did you ever have occasion to go out with Linda and her daughter on personal things, you know, social things?

A I went over to Linda's house for dinner.

Q Did you ever go anywhere else with Linda and her daughter?

A Yes. I went to see Linda's mother with her.

Q Was that with Linda's daughter also?

A Yes.

Q Mr. O'Keefe asked you about "old man," and you have heard that expression used for boyfriend, husband and legitimate connotations, have you not?

A Yes.

MR. NE MOYER: I have no other questions.

THE COURT: Anything else of this witness?

MR. O'KEEFE: No further questions.

(Witness excused.)

D A R L E N E B A G G E T T A,

called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. O'KEEFE:

Q Miss Baggetta, have you ever used any other name?

A Yes, I have, Joyce Williams.

Q Joyce Williams?

A Yes.

Q Can you tell us your date and place of birth, Miss Baggetta?

A 11-7-56, Albany, New York.

Q Miss Baggetta, I show you Government's Exhibit 29 marked for identification, and I ask you if you can identify this document?

A Yes. It is my birth certificate.

Q Miss Baggetta, directing your attention to the 18th of January, 1974, how old were you at that time?

A Seventeen.

Q Did anything significant happen to you on the 18th of January, 1974?

A I was arrested for prostitution.

Q You were arrested for prostitution?

A Yes.

Q And who arrested you?

A The Buffalo Police Department.

Q Where did they arrest you?

A 200 Niagara Street.

Q Do you recall the apartment number?

A 401.

Q And what name did you use at that time?

A Joyce Williams.

Q So you were arrested under the name of Joyce Williams, is that correct?

A Yes.

Q Can you tell us why you used the name Joyce Williams?

A Because I was told not to use my real name.

Q Who told you that?

A Salvatore Riniolo.

Q Salvatore Riniolo?

A Yes, and Harold Nelson.

Q Do you see Mr. Riniolo here in the courtroom?

A Yes.

Q Would you point him out for us, please?

A The gentleman in the middle.

MR. O'KEEFE: May the record reflect that she has identified the defendant?

THE COURT: Yes. The record may so indicate.

When and where did Mr. Riniolo tell you this?

A When I first went to Buffalo, I just understood that you wouldn't use your real name.

THE COURT: What did he say to you about not using your name?

A If anything ever happened where I would get arrested or anything like that, that I wouldn't use my real name.

Q And what were you charged with at the time you were arrested?

A Prostitution.

Q Prostitution?

A Yes.

Q Where were you taken at that time?

A Buffalo Police Department.

Q Buffalo Police Department?

A Yes.

Q Were you allowed to make a phone call at that time?

A Yes.

Q Who did you call?

A Linda Ferguson.

Q How long did you remain in jail?

A One day -- one night.

Q One day?

A One night.

Q Were you finally able to talk to Linda Ferguson?

A Yes.

Q On the phone?

A Yes.

Q What did she say to you at that time?

A She said she would contact a lawyer and to just give

them my name and wait for a lawyer to come over the next day.

Q Did she say which name you were to use?

A No.

Q You finally got out, then, the next day, the 19th, right?

A Right.

Q And who got you out at that time?

A Linda Ferguson.

Q Now backing up, what were you doing at 200 Niagara Street?

A Prostituting.

Q You were working as a prostitute?

A Yes.

Q And for whom were you working?

MR. NE MOYER: Your Honor, I object. That is a conclusion.

THE COURT: It is sustained as to form.

MR. NE MOYER: Thank you.

Q Did you have an agreement with someone to work there as a prostitute?

A Yes.

Q With whom was that agreement?

MR. NE MOYER: Your Honor, I object unless there is --

THE COURT: I will sustain the objection to the form of the question. The witness

may be asked what conversations she had with anybody and the jury will determine whether that conversation resulted in the formation of an agreement. She can also tell what, if anything, she did following the agreement, where she did it. The use of the word "agreement" is conclusory.

MR. O'KEEFE: Yes, Your Honor.

Q Did you have a conversation with Linda Ferguson about working as a prostitute at 200 Niagara Street?

A When I first came, it was agreed that I was to go there and work as a prostitute, yes. It was set up through Albany.

Q It was set up through someone else?

A Yes.

Q And who set it up?

A Harold Nelson.

Q Who is Harold Nelson?

A He was my pimp.

Q He was your pimp?

A Yes.

Q Where was he?

A In Albany.

Q He was in Albany, New York?

A Yes.

Q When did you first learn that you were going to Buffalo to work for Linda Ferguson?

A The week before I went.

Q And where were you when you learned that?

A In Albany.

Q You were in Albany?

A Yes.

Q Who picked you up at the Police Department?

A Linda Ferguson.

Q Was anyone with her?

A Salvatore Riniolo.

Q Salvatore Riniolo?

A Yes.

Q And where did you go then?

A To Elmwood Street.

Q To Elmwood Street, at that address?

A Yes.

Q At that address, did a conversation take place then?

A Yes.

Q Can you tell us what was said to you and what you said?

A Well, they asked me --

Q Who was "they"?

A Salvatore and Linda asked me what happened and what I said.

MR. ME MOYER: Your Honor, can I object? If "they" said, who said what?

THE COURT: You may cross-examine as to which one asked her, or whether they both asked her, but I will ask the witness to differentiate as to what you recollect who said what. As I understand now, there were three people present, is that right, about this conversation you are testifying about?

A Right.

THE COURT: Give us the substance of who said what?

Q To the best of your ability, tell us what Sal said to you and what you said to Sal, and what Linda said to you and what you said to Linda?

A Well, Linda and Sal both asked me what happened and what I said, and I told them that the police told me that Salvatore would --

MR. NE MOYER: I object to what the police said.

THE COURT: I will let the witness tell what she told them, the substance of what she told them.

Go ahead.

Q Go ahead.

A That I was told that Salvatore would kill me or hurt me if I was to say anything against him, and he laughed.

Then we got to the house and they said that they were going for a good six years and that they expected a bust and that everything would be okay.

THE COURT: Who told you that?

A Salvatore.

Q Did there come a time when you had to go to court on that charge?

A For the prostitution?

Q Yes.

A No.

Q You did not?

A No. There was a court date set up, but on the 21st there was a warrant for my arrest as a material witness.

(Pause in the proceedings.)

Q Do you recall testifying in a Grand Jury in Buffalo on January 31, 1974?

A Yes, I do.

MR. NE MOYER: Your Honor, I object to this. There is no showing --

THE COURT: I will sustain the objection. There has been no showing that the witness' recollection needs to be refreshed at this point. When her recollection of events is exhausted in any way, refresh her recollection by calling her attention to any

Grand Jury testimony.

What is the Exhibit number that you have in your hand?

MR. O'KEEFE: That was Government's Exhibit 24.

THE COURT: All right. Go ahead.

Q When you saw Linda over at the jail, did you and Linda have a conversation about Sal?

A Yes.

Q Can you tell us what she said to you and what you said to her?

THE COURT: Mr. Riniolo was not present in this conversation, is that right?

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A No. She told me not to worry about anything again and then I asked her what was going to happen, and she said that they didn't want her, that they wanted Sal and they didn't care what happened to her. All she was concerned about was with Sal.

Q I want to show you a couple of Government Exhibits, and I want to show you Government's Exhibit 19 and ask you if you saw this when you were at the apartment at Niagara Street?

A I don't recall seeing that, no.

Q I show you Government's Exhibit 20, and I ask you if you can identify that?

A Four days.

Q Four days?

A Four days.

Q And then you were arrested again on the 21st, which would make it three days, so that would be seven days, and how long did you stay in Buffalo after the second arrest?

A I'm not sure. I think I was in for about three or four days in jail waiting --

Q That was on the second arrest?

A Right.

Q But, actually, it was seven days up until that time?

A Right.

Q Do you know what a "trick" is, Miss Baggetta?

A Yes.

Q Can you tell us what it is?

A It is somebody that comes and pays to have whatever he wants done to him.

Q You mean "sex"?

A Right.

Q Can you tell us how you and Linda handled the tricks when you were working at the apartment?

A Well, I would stay at the apartment, and she would call and tell me when they were coming up, and she would describe them to me and tell me exactly what they were interested in, and how much.

Q And do you recall what the split was supposed to be?

A Fifty-fifty.

Q Did you, in fact, split fifty-fifty?

A No.

Q Why not?

A Well, the first time they picked up the money -- Salvatore picked up the money. And the second time it was when I got picked up, and after going through everything, I didn't see them again.

Q Nobody asked you for the money, then?

A No.

Q So the first time Salvatore himself picked up the money?

A Yes.

Q Was Salvatore up to the apartment on another occasion?

A He dropped a key off.

Q He dropped a key off?

A Yes.

Q Was that when you first arrived in Buffalo?

A Right, the first or second day.

Q Outside of those two occasions when he dropped the key off and when he came out to collect the money, did you see him on any other occasions when you were in Buffalo?

A When they picked me up from the jail the first time I was arrested.

Q And any other occasion?

up or hurt you, is that correct?

A Yes.

Q Mr. Riniolo never said anything of that nature to you, did he?

A I didn't say he did, no.

THE COURT: She is just telling us what the Buffalo City policeman told her. It is not received as any evidence that that statement was truthful.

Q Mr. Riniolo never threatened you in any manner, did he, Miss Baggetta?

A No.

Q In fact, did they laugh when you told them that that is what the Buffalo Police said?

A Yes, they did.

Q You made reference here to your age in a birth certificate, and you never showed a birth certificate to anybody when you were up here in Buffalo, did you?

A No.

Q Linda Ferguson was not aware of your real age, was she?

A I'm not sure if she was or not.

Q You never discussed your age, certainly, with Mr. Riniolo?

A No.

Q What name did Mrs. Ferguson use in referring to Mr. Riniolo, do you know?

Buffalo, New York

Monday, October 18, 1976

9:30 a.m.

- - -

THE COURT: You may proceed.

D A R L E N E B A G G E T T A,

called as a witness by the Government, being previously duly sworn, testified further as follows:

CROSS EXAMINATION CONTINUED

BY MR. NE MOYER:

Q You are Miss Darlene Baggetta, is that right?

A Yes.

Q Your home is in Loudonville, New York, which is just outside of Albany?

A I live in Chicago now.

Q It was during the times in question anyway?

A Yes.

Q When did you first get involved in this prostitution, Miss Baggetta?

A About December of '73.

Q December, '73?

A Yes.

Q Where was that?

A I started in Albany. That is where I got involved, and I went to Boston.

Q How did that come about that you went to Boston?

A It was settled through Harold Nelson and the people that worked with him for me to go to Boston to work.

Q What name did you use in Boston?

A I'm not sure, really, what name I was using.

Q It wasn't Joyce Williams, was it?

A No.

Q Was it a name that Mr. Nelson gave you?

A I don't think I was using my real name, but I can't recall which name I was working under, that I was using.

Q Was Mr. Nelson in the practice of giving you a name to use?

A Yes.

Q And what happened to you in Boston? You worked there?

A Right.

Q I understand that you were robbed or something to that effect?

A Yes.

Q And then you returned to Albany, is that correct?

A Yes.

Q Did you give all your money to Harold Nelson?

A I'm not sure. I don't know if I lost it all when I was mugged -- well, I recall giving him something back, but I don't think it was everything that I made.

Q Again referring to Court Exhibit 25, on Page 11, I will read two questions and answers:

Q Did you speak to anybody on the telephone from Albany to Buffalo?

A No, I don't think so.

Q You came to Buffalo from Albany, correct?

A Yes.

Q Who did you meet when you arrived here in Buffalo?

A Well, this was three years ago, and I get Boston and Buffalo mixed up, because I don't really know if I was met by somebody, or if I just went up to the apartment. I really get both of them mixed up. I don't know who met me where.

Q You recall being interviewed on the day you were arrested by two very tall agents of the FBI, Ronald Lee Hawley and Rex Ownby?

A Yes.

Q Do you recall telling them that you met Linda Ferguson in a bar?

A Yes.

Q But that would be untrue, wouldn't it?

A Yes.

Q Do you recall being interviewed again by Ronald Lee Hawley and this time it would be on January 31st, 1974, by Ronald Hawley, in this instance, and this would be for a couple of weeks after the first interview, and telling him that you did not make much money in Buffalo and that you

A No.

Q When you returned to Albany, you had the money, and you kept it, is that not so?

A I had a hundred dollars.

Q Whatever it was, you kept it, right?

A Yes, but that wasn't all the money that was made at the time.

Q Whatever you went back to Albany with, you kept?

A Yes.

Q How much do you claim you made when you were here?

A Exactly, I'm not sure. I think it was about, maybe two hundred dollars or maybe a little more. I don't know the exact figures.

Q You claim that you handed this defendant cash in hand, Mr. Riniolo?

A I remember him coming over to Niagara Street at one time to pick up some money.

Q What did you do? What did you actually give him, if he came?

A I can't remember the exact figure, but I know him I gave him some money in an envelope.

Q You gave him an envelope?

A I think it was in an envelope. I'm not really sure what it was in, but I don't think I just handed him that cash like that.

know whether or not to stay open, but he wants me to stay open." But I think that is definitely --

THE COURT: That has nothing to do with the transportation of Vickie.

MR. O'KEEFE: I think it shows his knowledge and his direction of the operation, and given his direction, anything that she does is as his agent.

THE COURT: We are talking about aiding and abetting, and if he did something to aid and abet, then I think it would be different. I believe I ought to dismiss Count 5, and I will grant the motion to acquit on Count 5 only.

MR. NE MOYER: Thank you, Your Honor.

THE COURT: On the others I will redact the references to Article 230 of the New York Penal Law. We will deal with the Federal statutes.

All right. You may now go forward.

Bring in the jury, please.

(Jury present.)

THE COURT: Members of the jury, Count 5 of the Indictment is no longer before

Q Where were you born, Mrs. Ferguson?

A In Buffalo.

Q Have you lived in Buffalo all your life?

A I lived in Buffalo most of my life except for when I was married, I lived in Silver Creek.

Q Are you still married?

A Yes.

Q How long did you live in Silver Creek?

A About a year, and then I came back to Buffalo.

Q Have you most of your adult life lived on the west side of Buffalo?

A Always.

Q Were you once a madam? Do you know what the term means?

A Yes, I do know what it means, and, yes, I was.

Q Before that, were you a prostitute?

A Yes, I was. I was a prostitute since I have been seventeen years old.

Q How did you get started as a prostitute, Mrs. Ferguson?

A I got married when I was sixteen. When I was seventeen, I came back to Buffalo. I left my husband, and I tried to go home and live with my mother, and she didn't want anything to do with me. She threw me out of the house, and I went down on Allen Street, and I was hanging out at a bar where Mulligan's is now. I don't remember the name of it then. And I met, you know, this guy named Sam and

Tony, and I can't remember the guy's name -- I think it was Russ. I'm not sure.

Q Is that "Sam" in this courtroom today?

A No, he is not.

THE COURT: How old are you?

A I am twenty-eight.

His name was Samuel LoTempio. And I didn't have any money, and I didn't have anything, and I was drinking there, and I was hanging around the bar, and you know, Sam says to me --

THE COURT: Let's not have conversations. Frame another question.

Q Anyway, whenever you got started, it had nothing to do with this defendant, did it?

A No. I didn't meet Sam until --

Q You met Mr. Riniolo sometime later, is that correct?

A Right, correct.

Q Did you meet him in the course of your being a prostitute or otherwise, that you recall?

A Well, I met him when I was working as a waitress in a restaurant.

Q Did there come a time when you and he had a relationship of prostitute and customer?

A Yes, sir.

Q Did he, in time, become somewhat of a regular customer?

A Yes, he did.

Q Did you have other regular customers?

A Yes, I did. In fact --

THE COURT: Just answer the questions. Don't volunteer. If you can answer a question, that is fine, and go ahead and do so.

THE WITNESS: Yes, I had other customers. I had this man right here (indicating).

THE COURT: Please, Miss Ferguson, let the attorney do the questioning. Don't volunteer information.

THE WITNESS: Okay. I'm sorry.

Q Did Mr. Riniolo ever persuade, induce, entice or coerce you to have sex with anyone?

A No. He did just the opposite.

Q In your presence, or to your knowledge, did he ever persuade, induce, entice or coerce anyone to have sex with anyone else?

A No.

Q Did you develop a romance of some sort with the defendant, Mr. Riniolo?

A Yes, I did.

Q Did you tell him that you loved him?

A Yes, but I told everybody I loved them.

Q Did he tell you that he loved you?

Q Did Mr. Riniolo give you gifts?

A Yes, he did.

Q Did you give him gifts?

A Yes, I did.

Q Did you have other customers that gave you gifts?

A Yes, I did.

Q Did you give other customers gifts?

A Yes, I did.

Q What kind of gifts did you give Mr. Riniolo, and what kind of gifts did Mr. Riniolo give you, if you remember?

A Well, he gave me a stereo, a great big stereo. It was really one of those long ones with the hi-fi in it, you know, and then he gave me a colored TV and eight-track stereo. He gave me all kinds of eight-track tapes, you know.

Q Do you know what kind of business Mr. Riniolo was in?

A Yes. He had two tape stores, and later on, he had a collision shop.

Q What kind of gifts did you give him?

A Once in awhile around Christmas I would buy him a sweater, and I would buy him a shirt. One time, I think, I bought him a suit jacket.

Q Did you do that sort of thing with other customers?

A When they are good to me.

Q For example, can you tell this jury the name of any other

I gave him a blender with the rolls and everything to his mother, because she is real sweet to me.

Q And he gave you a lot of gifts, too, right?

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A Yes. He bought me gifts.

Q In your discussion with Judge Brieant, you said you worked alone up until what age?

A Until I was twenty-four or twenty-five. I can't say exactly. I can't be exact on the age because of my operation.

Q By "alone," Mrs. Ferguson, you mean you worked as a prostitute as opposed to a madam?

A I worked alone, by myself.

Q What did you do by yourself?

A I was a prostitute.

Q Until what age?

A Until I had my operation, when I was twenty-four or twenty-five. But still then after that, I would still turn a few tricks on my own, four or five, that is all.

Q Did you go into business with somebody at that age?

A Mamie Harris.

Q Can you tell this jury what your business arrangement was with Mrs. Harris?

A I called Mrs. Harris, and, you know, I explained to her that I had a hysterectomy, that I couldn't work anymore, and that I didn't want to because I didn't feel like per-

forming, and could she please help me, that I heard through a "trick" that she could help me, and she said she could, and she sent over a girl, and the business arrangement was that I give her half, that if she would send over a trick, I would give her half of what the trick would spend after I split it with the girl.

Q For example, if a trick were to pay twenty-five dollars, the girl would have gotten twelve-fifty, and Mamie would have gotten seven twenty-five?

A Half of twelve-fifty -- I have to do it on paper.

Q Your arrangement, then, with the other twelve-fifty would be divided equally between you and Mrs. Harris?

A Yes.

Q Did you ever give Mr. Riniolo any money?

A No, I never gave him any money, or anybody, you know, any man any money. I gave my money to my mother to help support my daughter. I gave my money to my bill collectors, and I had a lot of bills.

Q Did you say earlier that you had lived on the west side most of your life?

A Right, except for one year.

Q And you developed a relationship with Mr. Riniolo of several years' standing, is that true?

A Yes.

Q Did you get to know Mr. Riniolo's parents?

went in with Mrs. Harris?

A No, not at first. When I first started being a madam -- well, I called Mamie Harris, you know, because I didn't know anything about being a madam or having girls come from out of state. And I called her, and, you know, she sent over a girl, and then she kept sending over girls, and then finally, you know, she started giving me numbers of other madams, and then I got numbers of other madams and other girls through the girls that were working for me.

Q Did there come a time that a short girl came to your place by the name of Mitzi Hill?

A Yes.

Q You now know her name to be Rita Burchill, and do you remember when Mitzi Hill came to work for you?

A I remember Mitzi very well. She stayed for about almost two weeks, I think. We went ice skating together. We went shopping. And, you know, when she was here, we had a lot of fun.

Q Did a fellow named Raymond Pandelli or something of that nature bring her to Buffalo?

A Raymond Pandelli brought her here to Buffalo. At that time Mamie Harris was working in my house with me. Raymond Pandelli did bring Rita to Buffalo, and --

Q Do you know how she came to Buffalo, or who made the arrangements?

A I called Raymond, and I told him that I needed a girl because the girl that I was expecting couldn't show up, because, you know, it was a holiday week end and all that, so I called Raymond.

Q In any way, manner, shape or form, did the defendant, Mr. Riniolo, have anything to do with that?

A No, he didn't.

Q Did he know anything about what you were up to?

A No.

Q Did he know that you were calling anybody?

A No, he never did.

Q Who was Raymond Pandelli? What did he do, if you know, for a living?

A Raymond Pandelli is a pimp. He has been a pimp for many years. He ran a farm, or what is called the "brokerage house" in Ohio, where he would take runaway girls, and he would keep them, and you know, he would teach them the business, how to be a prostitute, and stuff like that. And then he would send them out to different houses, and he would, you know, bring the girls to wherever he was taking them. And sometimes he would pick them up, and sometimes they would take a plane back or a bus, or whatever.

Q He had a lot of girls working for him?

A Oh, yes, definitely.

Q Did you ever advise Mitzi Hill, or Rita Burchill, to leave Raymond Pandelli?

A Yes. In fact, when Mitzi was at my house, like I said, she was really a nice girl -- I liked her, you know, and I felt kind of sorry for her, because Mamie told me that Raymond Pandelli was an old man, and Rita was a young, pretty and nice girl, a nice personality, and I told her, "Mitzi, why are you with this man? You know, in the first place, you shouldn't be in this business at all. You are too nice of a girl."

And then I told her, "Mitzi, if you have to be in this business, why should you have a pimp? All they are are leeches." I said, "I hate pimps. I hate to see a girl give her money to a man because she works too hard for it." And I told her this, you know, and she listened to me, and I said, "Rita, you know when you leave here --" I called her "Mitzi" then. I said, "Mitzi, when you leave here, don't go back to him. Take your money and go home, or do whatever you want to do, but don't go back to him. You don't need him."

Q Did you know a man in Albany named Harold Nelson?

A Yes.

Q Did you ever see Harold Nelson?

A Twice.

Q I show you what has been marked Government's Exhibit 20,

and no sixteen-year-old-girl that I ever seen had a build like Mitzi at that time. And she had all this makeup on. That made her look older. I thought she was of age. I never realized that she was sixteen years old.

Q Did you ask her how old she was?

A No, I never did.

Q But you thought she was what age?

A I thought she was at least eighteen or nineteen years old. And the way she acted and the way she dressed, no sixteen-year-old girl talks like that.

Q How were finances handled? What did you do day-to-day with the money? Where did you keep her money or things of that nature?

A Well, the girls would turn the trick and then they would come out, and they would give me the money. Then when they weren't looking, I would put the money in a metal box under the bar. It had a lock on it, and the reason I did this was because I didn't trust the girls with the money. I mean, you know, like if I left the money laying out there and they knew I had the money in the house, they might try and rip me off, and take off, because, you know, girls are very treacherous, especially those with pimps. So I kept the money in the metal box under the bar, and every Saturday night I would take the money out of the box. We would go into the kitchen, and I would get my book, and

I would take the money, and I would put it out like this (indicating), and, you know, I would show them the book, and I would show them how much they made, and I would say, "This is your half, and this is my half." And we would count it right there. We would both have pencils and paper, and we would both add it up so that we could both come out the same number, and that is how much she would have, and this would be my half.

Q Did anyone other than you and the girls ever count that money?

A No, no one, just me and the girls.

Q And you would split it up once a week?

A Once a week, and sometimes, like if they buy cosmetics or something, you know, I would make them, you know, go to the bathroom, and something like that, and I would go, and I would get, maybe, ten dollars out of the box, and I would give it to them, but that is all.

Q Did you tell the girls and lead other people to believe that you were broke?

A Of course.

Q Why would you do that?

A Because I didn't want them to know I had money in the house, and like I said, you know, I didn't trust them.

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And you can ask any madam -- every madam cries that they are broke and hungry. She could have twenty thousand

everybody I knew Christmas presents.

Q You had told her that you were going to buy Sam a present?

A I told her that my daughter was going to buy Sam a present.

Q And that you were stashing the money from Mamie Harris?

A Yes. You see, if Mamie knew --

THE COURT: Don't volunteer information. The attorney will ask you the next question.

THE WITNESS: I'm sorry, Your Honor.

Q Did a girl named "Bunny" come to work with you on several occasions, and who now has been identified as Flora Majusick?

A Yes.

Q Where did she come from, if you know?

A From what I knew, she came from Wheeling, West Virginia.

Q How were the arrangements made for her to come to your place?

A I called Bunny.

Q When she was with you, did you ever borrow clothes from her?

A No. I think Bunny is six foot tall, and I am only five foot four without shoes on, you know, and me wearing her clothes, they would be hanging way down to the floor. I had clothes. I had three closets full of clothes, plus I had clothes that I couldn't even fit in my closet.

Q You say that you never borrowed clothes from Flora Majusick?

A No, I never had to borrow clothes from her or anybody else.

I had so many clothes.

Q Do you still have them?

A I have most of them. You know, I have beautiful clothes in my house, and right now, I have two closets full of clothes left. And I bought my clothes, and they are expensive. I don't buy cheap clothes. Once in awhile I buy a pair of bluejeans, you know, but my clothes are beautiful. I never use anybody else's clothes.

Q You still have those clothes?

A Yes, I do.

Q Are you turning any tricks now?

A No. I see a couple of men, but I do not turn tricks. I am not hustling.

Q These clothes, then, are clothes that you had from --

A These are clothes that I had before I was arrested by the FBI, yes.

Q You are on probation right now?

A Yes.

Q And you have to watch your step, don't you?

A Right. That is why I am not a prostitute anymore, but I do out on dates with men. That is normal, I think.

Q In the time in question that we are talking about now, I guess June of '72 to January of '74, did you have charge accounts and credit cards and things of that nature?

A Yes.

///

Q And did you overextend yourself, on occasion?

A Yes, too much.

Q You say that you have a daughter?

A Yes, I have a daughter.

Q Was your husband supporting her at all?

A My husband was not her father, no. And her father disowned her. He didn't even want to know her. When she was born, he said that it was not his child.

Q You are the sole support of her, and you have been?

A I have been the sole support of my daughter since she has been two and a half or three years old.

Q Were you at one period of time helping to support your mother at the time in '72-'73?

A I was always supporting my mother.

Q Were you ever supporting Mr. Riniolo?

A No, I never supported Mr. Riniolo. Look --

THE COURT: Just answer the question. You have answered it. Let the answer stand.

MR. NE MOYER: Thank you, Judge.

Q Were you supporting Mr. Frederick Vickery?

A No, I wasn't.

Q Did you, on occasion, scrub Mr. Vickery's floors, or do his laundry?

A Yes.

Q Did you ever do that for Mr. Riniolo?

A I was never at his house.

Q What did you do with the money you earned?

A I paid my bills, and I had a lot of bills. You know, I gave money to my mother to pay her bills. I would give my daughter money. I paid my rent. And I had a checking account, and I put money in there, but I always wrote checks, and there never was any money in there because I always went shopping. If I had a hundred dollars, I would go out and blow it in five minutes.

Q How much would a girl make in a week, on an average?

A At my house?

Q Yes.

A It would depend --

Q An average?

A You mean before we split it up?

Q Before you split up, how much would she make?

A Before we split, maybe she would make fifteen hundred, and maybe she would only make a thousand.

THE COURT: You are talking about a week now?

A Yes.

THE COURT: How many customers did that comprise?

A In a week?

THE COURT: For the thousand dollars,

Q And you went in there on almost a daily basis?

A Yes.

Q And you spent about how much a day?

A I would spend at least twenty dollars, and maybe fifteen, you know, but at least twenty, because I would buy things I didn't even need.

Q Were you well-known in that place?

A Yes. They still know me.

Q You mentioned a car. Did you own a car during 1972-1973?

A Yes, I did.

Q What kind of a car did you own?

A I owned a 1969 Cougar, red and white vinyl top, a Mercury. It was a beautiful car. It was red.

THE COURT: Please just answer the question. We would like to finish the trial. Listen to the question and give him a straightforward, simple answer. You owned the car. Let's go on.

Q Who did you have your car insured with?

A Willoughby Insurance Company was the agent.

Q Did you keep cards on your various customers?

A Yes.

Q I show you what has been marked Government's Exhibit 9 and ask you to look at that. Are those cards that you kept in the business?

Q Right.

A Maybe two years.

Q That would run from when to when?

A From when I had my operation until the time I got busted.

Q Do you recall when you had your operation?

A I think I was twenty-four. I think I was either twenty-four or twenty-five.

Q How old are you now?

A Twenty-eight.

Q And you had your operation when you were twenty-four?

A Yes.

Q So that would be four years ago?

A Approximately, yes.

Q Did you run the business from '72 to '74?

A With the girls?

Q Yes.

A Yes, me and Mamie Harris.

Q You were the madam?

A I was one of the madams.

Q Was this a regular partnership? Was it a fifty-fifty partnership with Mamie Harris?

A Yes, it was.

Q And she always got half of everything you made?

A No, not always. At first I worked alone as a madam. I was the one and only madam, and then Mamie --

Q How long did you work alone?

A For about a year.

Q So that would be from '72 to '73?

A Somewhere around there. I can't be sure of dates, you know.

Q So then the first year you ran the business by yourself?

A Yes.

Q Didn't you have a pimp at that time?

A No.

Q And you had no male in charge over you?

A No, nobody could tell me what to do and how to do it.

Q Then your testimony is the second year you ran the business with Mamie Harris?

A Part of the second year.

Q Part of the second year?

A Yes.

Q For what period of the second year did you run the business with Mamie?

A From maybe September until right at New Year's when we dissolved our partnership.

Q So it was only a quarter of a year?

A Yes, around there.

Q At the time that the FBI came to your house and searched, did they also take certain cassette recordings?

A Yes.

Q Do you recognize these two cassette recordings which have

man"?

"This girl fell in love with my old man," is that your conversation?

A I don't remember it.

Q Do you have any reason to believe that it is not your conversation?

A I don't have any reason not to believe it is not my conversation.

Q Would you normally refer to anyone as your "old man"?

A I refer to a lot of people as "my old man."

Q You do?

A Yes.

Q How many people do you refer to as your "old man"?

A I referred to Fred Vickery as "my old man."

I referred to Sam as "my old man."

I referred to my step-father as "my old man."

Q Are there any other people that you referred to as your "old man"?

A Not right now, no.

Well, "old man" -- Joe, he was my "old man." He was my "baby."

Q Now going up about three or four pages here, and down towards the bottom we have Sammy, the female from Pittsburgh, talking to Linda, and it reads as follows:

"SAM (female): Yeah.

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"LINDA: That whole week there, I don't have, you know, anybody booked at all, and I don't know if I should. He said not to stay closed because business should be, you know, pretty good."

Now who is the "he" that you were referring to?

A Can I see what the conversation was about?

MR. O'KEEFE: Certainly.

(Transcript handed to the witness.)

THE WITNESS: That was Christmas, and I wasn't talking about a "he." I was talking about a "she." I was talking about Mamie Harris, and if I said "he," it was a mistake. But I was talking about Mamie Harris. Mamie Harris wanted to stay on during the holidays. She wanted to stay open, you know, every day. If it was up to Mamie, we would have been open twenty-four hours a day. My hours were from twelve in the afternoon until one in the morning, and hers were all night and all day.

Q I thought you told us that you didn't take orders from anybody?

A I never took no orders from no man.

Q How come you said, "He said not to stay closed"?

A I just explained that, Mr. O'Keefe.

Q That you really meant "she"?

A Yes.

Q On the back it says "Linda Huber." Is that your signature?

A Yes.

Q You also use the name "Huber" at times?

A That is my maiden name, yes.

Q Is that correct?

A Yes.

Q And I show you Government's Exhibit 6, and I ask you if you can identify that? It is a letter addressed to "Miss Linda Huber"?

A Yes.

Q And that was in your apartment at the time the agents took it? That was your property, and that was in your house?

A Yes.

Q I would like to read that letter. (Reading):

"Please be advised that the bank has returned your check in the amount of $177, which is your security deposit, to our office for insufficient funds. We shall accept payment of your security deposit by October 5th, 1973, or appropriate legal action will be taken against you."

Did that check, in fact, bounce, that you had written for the apartment?

A Yes.

Q Were you, in fact, broke at that time?

A I wasn't broke. I had money, but it wasn't in the bank at the time I wrote the check. I mean, I would make money, and I would spend it. I was broke, but I wasn't broke.

Q I show you Government's Exhibit 21, which is a Beneficial Finance statement to Mrs. Linda Huber. Now this is dated the 26th of December, '73, showing your balance as owing $1,316.69. Does that represent a loan?

A Yes. It was a loan.

Q Now this was dated the 26th of December, and was seized by the FBI on the 21st of January and was unpaid, is that true?

A Yes.

Q Now I show you Government's Exhibit 12-A, which contained this receipt in the back, and it says here, "Received from Linda Huber 31.13 for overdraft on Checking Account 3819026." Is that yours?

A (No response.)

Q Do you have any reason to believe it isn't?

A I don't know of any reason to believe that it isn't.

Q Is this your notebook? Do you recognize it?

A I recognize it, yes.

Q Now I show you another Beneficial Finance statement, and this is back in September of '73, at which time you owed $1,319.79, is that correct?

A Yes.

Q So you had paid almost nothing from September to December

A Yes, he did.

Q Did you ever help him out in the stores in any respect?

A Just once in a great while. I would maybe sweep the floor when I got tired of sitting around.

Q Do you know Mr. Riniolo's parents?

A Yes, I do.

Q What do you call his parents?

A I call his father "Mr. Riniolo," and I call his mother "Ma."

Q Why do you call her "Ma"?

A Because she is an elderly woman, and she treats me good.

Q Do you know what other people in the neighborhood call her?

A "Ma."

Q Was Mr. Riniolo's business a pretty good business? Was he doing pretty good?

A Yes.

Q Do you know what kind of car Mr. Riniolo had in 1972, 1973, in January of 1974?

A Yes, a Cadillac El Dorado.

Q Do you know what year it was?

A '69.

Q Do you know what kind of shape that car was in?

A At the beginning it was in bad shape. If you would bump him in the taillight, it would fall on the ground.

Q How do you know this?

A Many times I helped him put them back on again.

Q Do you know whether or not Mr. Riniolo had another business other than the tape business?

A No, I don't.

Q Did you ever help Mr. Riniolo do any collision work?

A No, I haven't.

Q Did you help him work on his car?

A Yes, I have.

Q Do you know what year that car was?

THE COURT: I think we have all this.

MR. NE MOYER: I'm sorry, Judge.

THE COURT: We are taking too much time about automobiles. It was a '69 Cadillac. Let's go on.

Q Do you know how he acquired it? Was it new or used?

A Used.

Q Were you aware of what kind of hours he was putting in, in the shop, Mr. Riniolo?

A He usually opened up nine thirty or ten and stayed there until eight or nine at night and sometimes later.

Q Did you ever see his wife in that shop on occasion?

A A lot of times.

Q Are you aware that Mr. Riniolo had some sort of a relationship with your sister-in-law, Linda Ferguson?

A Yes.

A Yes.

Q Do you know what that relationship was?

A Well, like boyfriend and girlfriend, I guess you would call it. You know, you buy your girlfriend something, and things like that.

Q Do you know whether they did exchange gifts?

A I know he gave her a lot of stuff.

Q Do you know whether she gave him much stuff?

A Not really.

Q You don't know, or she didn't give him really much?

A She really didn't give him too much.

Q But he gave her quite a bit?

A Right.

Q Do you know where your sister-in-law kept her money, Mrs. Ferguson?

A Yes.

Q How do you know that?

A Because she had me install a metal box under her bar.

Q Can you describe to the jury the box?

THE COURT: Under what did you install the box?

A A metal box under her bar.

THE COURT: Under a barrell?

A A bar.

THE COURT: A "bar"?

Q You never showed those photographs to me before, though, did you?

A No, I haven't.

Q Are you aware what kind of car Mrs. Ferguson had?

A Yes. She had a Cougar.

Q Do you know what year it was?

A I think it was a '69.

Q Were you aware of the food situation at Mrs. Ferguson's house at 829 Elmwood Avenue?

A Yes.

Q Did you eat there on occasion?

A Many times.

Q She had an ample supply of food there, is that right?

A All the time.

Q Did you ever go shopping with her at Tops?

A Yes.

Q About how much would she spend, do you know?

A Forty, fifty dollars.

Q Did she buy your children things at Christmas?

A Yes.

Q What, for example?

A Toys, clothes, rocking horses, things they needed or that they wanted; whatever they wanted, they could have.

Q In 1972-1973, those two Christmases, what would you estimate that Mrs. Ferguson would have spent on toys for

your children?

A It is hard to say, because I don't know. One year she went to Kings there, and she spent fifteen hundred dollars.

THE COURT: On toys for your children?

A Toys and other stuff.

THE COURT: For your children?

A Not all for my children.

THE COURT: The attorney asked you about your children, on Christmas for two years, so please pay attention to the question.

A Your Honor, I didn't add the things up. I don't ask people to price things.

THE COURT: If you don't know, you can say you don't know.

Q Your children would be her nieces and nephews?

A Nephews.

Q Can you tell us what she would spend on your children, if you can estimate a figure?

A Between four and five hundred dollars.

Q Are you aware that Mrs. Ferguson was giving money to her mother?

A Yes.

Q Were you aware she had run bills up in quite a few stores?

A Yes.

Q Were you privy to any conversations or anything that indi-

THE COURT: Very well. You may step down.

(Witness excused.)

M A R I O N R I N I O L O,

called as a witness by the Defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. NE MOYER:

Q Your name is Marion Riniolo, is that correct?

A Yes.

Q Are you married to the defendant?

A Yes.

Q How long have you been married?

A It will be seventeen years in December.

Q Where did you get married?

A Coronation Church.

Q Is that in Buffalo?

A Yes.

Q How old were you at that time, and how old was he?

A I was seventeen, and he was nineteen.

Q How many children do you have?

A Four.

Q Was your husband in business at the time in question here, which is June 1st, 1972, until January 31st, 1974?

A Yes. We had two businesses.

doing very substantial.

Q Were you getting along fair, financially?

A Oh, yes.

Q Did your husband appear to have a source of income other than his business?

A No.

Q Was your relationship a fairly close one, about the business and everything else?

A Yes.

Q What name was your husband called by, or what name did he use?

A Sam.

Q Did anyone use the name "Sal" in reference to him?

A No. He has never been known as "Sal," even in school.

Q What kind of a car did your husband have in 1972, 1973?

THE COURT: Can't we get off of the cars? I don't think the Government disputes the 1969 Cadillac. Let's not waste time with these cars, Mr. NeMoyer. There is no argument over the car.

Q Who owned the car?

A I did.

Q Were you aware during that period of time that your husband was having an affair?

A No.

Q Do your children go to public schools?

A My two sons go to Burgard. My two daughters go to a parochial school. It is a Catholic school.

Q Is Burgard a public school?

A It is a vocational high school.

Q And your two daughters go to private schools?

A No. They go to St. Margaret's, a Catholic school.

Q A Catholic school -- is that a private school?

A No.

Q You pay tuition?

A Yes.

Q How much do you pay?

A I haven't paid any because we have been in a hardship.

Q Did you pay something in 1972, 1973?

A No. They weren't asking tuition then. They just raised it now because they needed money.

Q Do you own your own home?

A No. We rent.

Q How much is your rent?

A One hundred and eighty-five.

Q One hundred and eighty-five dollars?

A Yes.

Q Is the '69 Cadillac paid for?

A We no longer have it.

Q What do you have now?

A A '71.

Q A '71 Cadillac?

A Yes.

Q Do you have any trucks in the business or anything like that?

A No.

Q Do you owe any loans?

A Do we owe loans?

Q Yes, bank loans or anything?

A The car.

Q The car?

A Yes.

Q That is all?

A Utility bills. I just paid my furniture off.

Q And you have no idea that your husband was involved with Miss Ferguson until this case arose?

A None whatsoever.

Q Did he come home every night?

A Most of the nights, yes, but there were times when we were opening up the other store on Hampshire, and he would come home, eat dinner, and go to the other store to help remodel.

Q But he was home most nights?

A Most nights, yes.

Q Do you love your husband?

MAMIE HARRIS,

called as a witness by the Defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. NE MOYER:

Q Mrs. Harris, what line of business were you in for, say, the last thirty, forty years of your life?

A I was running a place.

Q You were a madam, right?

A Yes.

Q Do you know a woman by the name of Mrs. Ferguson, Mrs. Harris?

A Linda Ferguson?

Q Linda Ferguson.

A Yes.

Q How did you know her, Mrs. Harris?

A It has been a long time. I can't remember how we were introduced.

Q Was that a few years ago?

A Yes. That was a few years back.

Q Then the two of you went in business together, is that correct?

A That's correct.

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Q And you knew her, business-wise, for about how long, Mrs. Harris? Can you give the jury an estimate of about how

Q Or did she take care of a lot of the expenses out of her percentage?

A She took care of a lot of it. I helped her with some bills, but I just can't remember when, because it has been a long time.

Q How many girls would Linda have working for her at one time over at her place?

A One.

Q One girl?

A One.

Q Mrs. Harris, did you ever have a pimp yourself?

A No. I had a lot of boyfriends, but I can't say they were pimps.

Q You ran your own business, didn't you, Mrs. Harris?

A Yes, I did.

Q And you supported yourself, and you didn't support any man?

A No, I didn't.

Q Now did Linda Ferguson run her own business, Mrs. Harris?

A Yes, she did.

Q Do you know the defendant, Mr. Riniolo?

A Yes. I haven't seen him in so long.

Q But tell this jury how you know Mr. Riniolo?

A Well, he used to come over once in awhile.

Q Did he eat your cooking?

A He loved it.

Q And he used to come over and eat, didn't he?

A Yes, and he would relax, maybe an hour.

Q And he would come around and see Linda once in awhile, didn't he?

A Well, it seemed like once in awhile.

Q He came around once in awhile when Linda wasn't there and ate your cooking, didn't he?

A Yes, he did.

Q He never discussed with you, or partook in the business, did he, Mrs. Harris?

A No, he didn't talk to me about the business at all.

Q What did Mrs. Ferguson call him? Do you remember the name she used?

A She called him "Sam."

Q What do you call him?

A Sam.

Q Did you ever hear anybody call him "Sal"?

A No, not "Sal," no.

Q Mrs. Harris, in the business you were in, a madam, do people try to borrow money off of you quite a bit?

A Well, sometimes my friends -- they sure do.

Q And as a protective device, Mrs. Harris, would you sometimes tell them that you didn't have money so that you wouldn't have to lend them money?

enticing or coercing anybody to have sex with anybody else? Were you ever aware of him trying to persuade somebody to have sex with somebody else?

A No, no.

Q Were you ever aware of him trying to induce somebody into traveling from one state to another?

A No. I never heard him talking or using the phone or nothing.

Q You never heard him using the phone or anything, right?

A Not for no business like that, no.

Q Mrs. Harris, you ran Linda Ferguson's business when she was in the hospital, didn't you?

A Yes, I did.

Q And you ran it, and you alone, isn't that true, Mrs. Harris?

A Yes.

MR. NE MOYER: I have no other questions, Judge.

THE COURT: You may cross-examine.

CROSS EXAMINATION

BY MR. O'KEEFE:

Q Mrs. Harris, do you recall appearing in a Grand Jury here?

A Yes. I will never forget it.

Q You remember that you appeared on a couple of occasions, according to the records here? You appeared on the 31st of January, 1974, and I believe you were with your attorney,

THE COURT: Baggetta is not in any substantive count, is that right?

MR. O'KEEFE: That's right.

THE COURT: So that is all good enough for this Count, right, which I have, no doubt, you can go to the jury on, but I think some of these other Counts we ought to have pinpointed.

MR. O'KEEFE: Your Honor, as far as I'm concerned, I think the proof shows that he, in fact, is the pimp and that he is directing this, and therefore, she is acting as his agent, and she, then, becomes his agent, and he is responsible for those acts and those phone calls and the rest of the activities.

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THE COURT: Which of these witnesses did he have anything to do with?

MR. O'KEEFE: He had something to do with Rita Marie Burchill.

THE COURT: All right. I will let them go to the jury, but I think they are awfully thin, and I'm not going to charge Pinkerton.

MR. NE MOYER: You previously struck Count 5?

THE COURT: Yes, I struck Count 5, and I redacted reference in Count 1 to 230 of the Penal Law of the State of New York, and the first six lines on Page 2. I think I told you that before on the record.

versation where he said, "We are staying open Christmas because business should be pretty good."

These are the nickels and dimes I am talking about. We are just giving you some more nickels and dimes where Linda is referring to Sam again as her "old man" and Sam is sleeping over, and Linda tells Flora, "Sam will take care of anything. You don't have to worry."

And where is the money that the girls were making? There is no car out there. There are no clothes. There isn't even any food in the house, but Sam, somehow, is managing to drive a Cadillac.

Now we get to Rita Marie Burchill. She was working for a co-conspirator, Raymond Pandelli, out in Ohio. You heard Linda this morning telling about Pandelli, how he ran the school for prostitutes out there and taught them everything and that he even farmed them out around the country. And she was sixteen, and they farmed her up here. Oh, there had been some talk that she never told him she was sixteen, that she said she was twenty-three. But do you remember later when Sam and Linda were talking to her, and Linda was telling about Pandelli was known for using all these young girls, that she was sixteen, and her birth certificate is over here, and that is Government's Exhibit 28-A.

Buffalo, New York

Tuesday, October 19, 1976

9:30 a.m.

- - -

(Trial resumed; jury present.)

(At the side bar.)

THE COURT: Mr. NeMoyer, in your written requests, you did not ask for a charge that no inference followed from failure to take the stand. Do you wish me to charge that?

MR. NE MOYER: Yes, Your Honor.

(In open court.)

CHARGE OF THE COURT

THE COURT: Members of the jury, we are now at that stage in the trial where you will soon undertake your final function as jurors in this case. Here you perform one of the most sacred obligations of citizenship, and that is acting as ministers of justice.

You are to discharge this final duty in an attitude of complete impartiality, and as I emphasized when you were first selected, without bias or prejudice, for or against the Government or the defendant as parties to this controversy.

Let me state that the fact that the Government is a party here entitles it to no greater consideration

than that accorded to any other party in court.

By the same token, it is entitled to no less consideration. All parties, individuals, and Government alike stand as equals before the bar of justice.

Your final role here is to decide and pass upon the fact issues in the case. You are the sole and exclusive judges of the fact. You determine the weight of the evidence. You appraise the credibility or truthfulness of the witnesses. You draw the reasonable inferences from the evidence, and you resolve such conflicts as there may be in the evidence.

My final function here is to instruct you as to the law, and it is your duty to accept these instructions as to the law and to apply them to the facts as you may find them to be.

Now, you are not to take any one of my instructions which I give you alone as stating the law, but you must consider all of my instructions, taken together as a whole.

With respect to any fact matter, or any matter in evidence, it is your recollection and yours alone that controls. Anything that the lawyers, either for the Government or the defendant, may have said with respect to matters in evidence, whether during the trial, or in a question, or in an argument, or in

summations, is not to be substituted for your own recollection of what the evidence is.

So, too, anything that I might say during the trial, or anything that I might mention or refer to during the course of these instructions as to any matter in evidence, is not to be taken in place of your own recollection.

Questions are not evidence. The evidence is the answer brought out by the question and the exhibits and documents in evidence. And the attorneys in the case not only have their right, but it is their duty to make objections and to press whatever legal theories they may have. They are simply performing their duty. Any evidence as to which an objection was sustained by the Court, and any evidence ordered stricken out by the Court must be disregarded in its entirety.

Put out of your mind any exchanges which may have occurred during the trial between the lawyers or between any attorney and the Court. It is not my function to favor one side or the other, or to indicate to you, the jury, in any way that I have any opinion as to the truthfulness as to any witness or as to the guilt or innocence of the defendant. That is your function. It is yours alone to decide, and I leave it entirely to you.

So, please do not assume that I hold any opinion in any matters concerning this case, and please don't reach any conclusions that I may have some attitude or that I may tend to favor one side or the other in the case. I do not.

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Of course, as I told you earlier, the Indictment here, itself, is not evidence of the crime charged. Instead, an Indictment is merely the method or procedure under our law whereby persons accused of crimes by a Grand Jury are brought into court to have their case decided by a trial jury, such as yourselves.

Therefore, the Indictment must be given no evidentiary value. It shall be treated by you only as an accusation. It is not evidence or proof of the defendant's guilt, and no weight or significance whatsoever is to be given to the fact that an Indictment has been returned against the defendant. He has pleaded not guilty, and thus, the Government has the burden of proving the charges beyond a reasonable doubt.

A defendant does not have to prove his innocence. On the contrary, he is presumed to be innocent of the accusations contained in the Indictment. This presumption of innocence was in his favor at the start of the trial, as I believe I told you before.

It continued in his favor throughout the entire trial, and it is in his favor now, and remains in his favor during the course of your deliberations in the jury room, and the presumption of innocence is removed as to a particular Count in the Indictment only if and when you, the jury, are satisfied that the Government has sustained its burden of proving the guilt of the defendant as to that particular Count beyond a reasonable doubt.

Of course, unless you are so convinced, you must find him not guilty.

Each Count is a separate matter and is to be separately decided without reference to what your verdict may be on any of the other Counts.

Now, the question naturally comes up, what is a reasonable doubt? Well, members of the jury, those words almost define themselves, that is, a doubt founded on reason arising out of the evidence in the case or the lack of evidence.

It is a doubt which a reasonable person has after carefully weighing all the evidence. Reasonable doubt is a doubt that appeals to your reason, to your judgment, to your common sense, and your experience. It is not caprice or whim or speculation or conjecture or suspicion. It is not an excuse to avoid the per-

formance of an unpleasant duty, and it is not sympathy for a defendant.

If after a fair and impartial consideration of all the evidence, you can candidly and honestly say you are not satisfied of the guilt of the defendant as to a particular Count, that you do not have an abiding conviction of a defendant's guilt of the particular Count or charge; in sum, if you have such a doubt as would cause you as prudent persons to hesitate before acting in matters of importance to yourselves, then you have a reasonable doubt, and under that circumstance, it is your duty to acquit the defendant as to the Counts you are then considering.

On the other hand, if after such an impartial and fair consideration of all the evidence you can candidly and honestly say you do have an abiding conviction of a defendant's guilt, such a conviction as you would be willing to act upon in important and weighty matters of the personal affairs of your own life, then you have no reasonable doubt, and under those circumstances, it is your duty to convict.

Reasonable doubt does not mean a positive certainty or beyond all possible doubt. If that were the rule, few men, however guilty they might be, would ever be convicted, because it is practically impossible

for a person to be absolutely and completely convinced of any disputed fact which by its nature is not susceptible to mathematical proof. For that reason, the law in a criminal case is that it is sufficient if the guilt of a defendant is established beyond a reasonable doubt -- not beyond all possible doubt.

For your guidance in considering the evidence, I must tell you there are two classes of evidence recognized and admitted in courts of justice upon either of which the jurors may find an accused person guilty of a crime. One is called direct evidence and the other is called circumstantial evidence. Direct evidence tends to show the fact in issue without any need for any other amplification, although, of course, there is also the question of whether it's to be believed.

Circumstantial evidence tends to show facts from which the fact in issue may reasonably be inferred. It's evidence which tends to prove the fact in issue by proof of other facts which have a legitimate tendency to lead the mind to infer or to conclude that the facts sought to be established must be true.

There is a traditional example which is given of the use of circumstantial evidence. Let's assume for a moment that you were seated in an office in one of the higher buildings down the street here, on a

cloudy day where there are windows that look out on the street below, and sometimes it's difficult merely by looking out of a window of a tall building to determine whether it's raining or not. But if you look out of the window and look down on the street you see people passing by in the street have their umbrellas up, you will usually come to the conclusion it must be raining. You have direct evidence, the evidence of your own senses, that tells you the umbrellas are up. You can see them, and that evidence constitutes circumstantial evidence from which you are entitled to draw the inference or reach the conclusion that it must be raining. In other words, circumstantial evidence consists of facts proved from which the jury may infer by a process of reasoning other facts which may be in dispute, and circumstantial evidence, if believed, is of no less value than direct evidence, for in either case you must be convinced beyond a reasonable doubt of the guilt of a defendant before he may be convicted of any crime.

Now in determining what evidence you will accept, you must make your own evaluation of the testimony given by each of the witnesses and determine what you believe to be the truth and the degree of weight to which you choose to give that testimony. The testimony of a witness may fail to conform to the

facts as they occurred because the witness didn't actually see or hear what he testified about, or because he or she is intentionally telling a falsehood, or because his or her recollection of the events, his or her memory is faulty, or because the witness hasn't expressed himself or herself clearly in giving testimony. There is no magic formula by which you can evaluate testimony. You bring to the courtroom this morning all of the everyday experiences and background of your own lives. In your everyday affairs, you determine for yourself the reliability of statements made to you by other people, and the same tests you use in your everyday dealings and everyday life are the tests that you will apply in your jury deliberations.

You use your common sense. You may, of course, consider the interest or lack of interest of any witnesses in the outcome of this case. A witness who is interested in the outcome of the case is not necessarily unworthy of belief, but the interest of a witness is a factor or a possible motive which you may consider in determining the weight you give it to be attributed to his testimony, and in doing so, you may also consider whether the testimony of a witness is corroborated or borne out by the testimony of others, or by documentary exhibits or evidence.

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You may consider the bias or prejudice of a witness if there by any and the manner in which the witness gives his or her testimony on the stand, the appearance, the conduct and demeanor of the witness, the opportunity the witness had to observe the facts that he or she has testified about, and the probability or improbability of the testimony in the light of all of the other events in the trial.

You may consider whether a witness had a motive to lie. These are all items to be taken into your consideration in determining the truthfulness and weight, if any, you will assign to that witness' testimony. If these considerations make it seem there was a discrepancy in the evidence, you have to consider whether this can be reconciled by fitting the two witnesses' testimony together. And if that is not possible, you will have to determine which of the two conflicting versions, if any, you will accept.

Now, if a witness is shown to have knowingly testified falsely concerning any material matter in a trial, or in any prior proceedings, you have a right to distrust such witnesses' testimony in other things, and you may reject all of the testimony of that witness, or you may give it or parts of it such credence as you think it deserves.

A word about the admissions of a defendant. If you find that the defendant voluntarily and intentionally made a statement to a witness whom you believe, then, and only then, such admissions by a defendant of incriminating facts concerning himself are amongst the strongest proofs of that fact known to the law. Here, the Government contends that the defendant made an admission to the witness, Darlene Baggetta, also known as "Joyce Williams," after she was arrested by Buffalo Police. You will recall what her testimony was, and I will not refer to it. If you find that he said what Miss Baggetta testified that he said, you may regard that as an admission on his part of his participation to the extent set forth therein. But, as I stated earlier, such a determination involves deciding facts, and you, the jurors, are the only judges as to all of the factual issues in this case.

The law does not compel a defendant in a criminal case to take the witness stand and testify, and no presumption of guilt may be raised, and no inference of any kind may be drawn adverse to him from the failure of the defendant to testify.

I remind you once more that the law never imposes upon a defendant in a criminal case the burden or duty of testifying or calling any witnesses or pro-

ducing any evidence. And no inference adverse to him may follow from any of those matters.

And the weight of the evidence is not necessarily determined by the number of witnesses testifying on either side. You should consider all the facts and circumstances in evidence to determine which of the witnesses are worthy of greater credence. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side. It is a matter entirely for your decision. A witness' testimony which you believe is of no less or no greater importance because of who called him. It doesn't matter who called the witness. The question is, what did the witness say? And what do you believe based on all the evidence in the case?

Now an accomplice is one who unites with another person in the commission of a crime, voluntarily and with common intent. There are a number of witnesses in this case, and you will remember who they are, who by their own testimony were either accomplices in the commission of this crime charged here, or some other criminal activity, such as prostitution. An accomplice does not become incompetent as a witness because of participation in the crime charged. On the contrary. The

testimony of an accomplice alone, if believed by the jury, may be of sufficient weight to sustain a verdict of guilty, even though not corroborated or supported by other evidence. However, the jury should keep in mind in weighing the testimony that such testimony is always to be received with caution and weighed with great care. Experience shows us that accomplices are often tempted to incriminate others and minimize their own misconduct and that fact is something you should realize in considering the testimony of accomplices.

Now the Indictment in this case, members of the jury, now contains four Counts. Count 1 is the so-called Conspiracy Count, and I will discuss that first. The remaining Counts are substantive Counts, to keep them separate in the discussion from Count 1. And the elements of the crime of conspiracy are different from the substantive charges, and the particular substantive charges here have different elements, so I will be discussing the elements separately, and I ask you to keep them separate in your minds.

The Indictment names two defendants, Salvatore A., or Sam, Riniolo, and Linda Huber Ferguson as defendants, and charges that others not named as defendants, and unknown persons, are also conspirators in Count 1. Mr. Riniolo is the only person with respect to whom you are asked to announce a verdict, although as I will ex-

plain to you shortly, you may have to consider the activities of Mrs. Linda Huber Ferguson and others, and in this connection, you are not to concern yourselves with why the others are not on trial or why they weren't indicted. This is not a matter of your concern. It has nothing to do with the case. You have also heard that Linda Huber Ferguson pleaded guilty to some of the Counts. This fact has no significance or evidentiary value on the question of Mr. Riniolo's case. Put it out of your mind.

In the determination of whether or not guilt is proven beyond a reasonable doubt, you must bear in mind that guilt is personal. The guilt or absence of guilt of this defendant on trial before you must be determined separately with respect to him, solely on the evidence presented against him, or the lack of evidence, and not in accordance with what you may find the guilt of somebody else may be. Also, as I mentioned earlier, you will decide separately, and announce separate verdicts for each of the four Counts which are now on trial here before you.

I will now read Count 1, which is the Conspiracy Count:

"The Grand Jury Charges: That continuously between approximately June 1, 1972, and January 31, 1974, that exact dates being to the Grand Jurors unknown,

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in the Western District of New York and elsewhere, the defendants herein, Linda Huber Ferguson and Salvatore A. (Sam) Riniolo, unlawfully did conspire, combine and agree together and with other and with Carol Barber, Betty Grand a/k/a"Sammie," Mamie Harris and Raymond Pandelli (named herein as co-conspirators but not as defendants) and with numerous other persons most of whose names are to the Grand Jurors unknown, to commit offenses against the United States of America, namely:

"(A) To use facilities in interstate commerce (that is, telephone facilities and common carriers) and to travel and to cause others to use such facilities and travel in interstate commerce (that is, by airplane, bus and automobile between Buffalo, New York, in the Western District of New York, and places outside the State of New York, including, among others, Boston, Massachusetts, Warren, Ohio and Pittsburgh, Pennsylvania) with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of a certain unlawful activity -- the said unlawful activity being a business enterprise involving prostitution, in violation of Sections 2421, 2422 and 2423 of Title 18 of the United States Code.

"(B) To knowingly transport and cause, aid and abet the transportation in interstate commerce

(that is, between Buffalo, New York, and points outside the State of New York) of women and girls for purposes of prostitution, debauchery and other immoral purposes; and to knowingly procure and obtain and cause, aid and abet the procurement and obtaining of tickets and other forms of transportation and evidence of rights thereto to be used by various women and girls in interstate commerce as aforesaid, and in going between Buffalo, New York, and other places outside the State of New York for purposes of prostitution, debauchery and other immoral purposes in violation of the provisions of Sections 2421 and Section 2 of Title 18 of the United States Code; and

"(C) To knowingly persuade, induce and entice and cause, aid and abet the persuasion, inducement and enticement of women and girls to go from one place to another in interstate and foreign commerce (that is, between Buffalo, New York, and points outside the State of New York) for purposes of prostitution, debauchery and other immoral purposes, and thereby to knowingly cause such woman and girls to go and be transported as passengers upon common carriers (that is, airplanes, buses and trains) in interstate commerce as aforesaid, in violation of the provisions of Sections 2422 and Section 2 of Title 18 of the United States Code; and

"(D) To knowingly persuade, induce and entice and cause, aid and abet the persuasion, inducement and enticement of girls, who had not attained their eighteenth birthday, to go from one place to another as aforesaid by common carrier as aforesaid in inter-state commerce with intent that such girls be induced to engage in prostitution, debauchery and other immoral practices, in violation of Sections 2423 and Section 2 of Title 18 of the United States Code.

"Overt Acts

"And, during the period aforesaid, the said Defendants, Linda Huber Ferguson and Salvatore A. ("Sam") Riniolo, committed, among others, the following overt acts in furtherance of the said conspiracy and in order to effectuate the object and purpose thereof --"

And then there is a list of overt acts, and I will read those to you in a few moments.

Now I will be reading certain Federal statutes to you this morning. You need not remember the Section numbers, but it is essential that you listen and understand and know what conduct the various statutes forbid.

I will begin with Section 371 of Title 18, United States Code, which provides in relevant part, that:

"If two or more persons conspire to commit any

offense against the United States, and one or more of such persons do any act to effect the object of the conspiracy, each is guilty of an offense against the United States."

That is the statutory basis for the first Count, or the so-called Conspiracy Count.

Count 1 of the Indictment charges that the defendant conspired with the defendant, Linda Ferguson, and certain other unindicted co-conspirators to violate certain other laws of the United States, and those sections of law which it is alleged they conspired to violate are Sections 1952, 2421, 2422 and 2423 of Title 18, United States Code. Now all of these other laws, in one form or another, prohibit travel in interstate commerce and/or the use of interstate facilities, such as the telephone and the airlines and the buslines and the common carriers to engage in prostitution or transport prostitutes across State lines to do so.

I will read you these Sections. Specifically, Section 1952 of Title 18, provides in relevant part that:

"Whoever travels in interstate commerce or uses any facility in interstate commerce with the intent to distribute the proceeds of any unlawful activity; or otherwise promote, manage, establish, carry on, or

facilitate the promotion, management, establishment or carrying on of any unlawful activity and thereafter, performs or attempts to perform any of the acts specified shall be guilty of an offense against the United States.

"The term 'unlawful activity,' as used in this Section, includes prostitution offenses in violation of the laws of the United States."

Please notice that mere prostitution or merely having a share in the operation of a house of prostitution or two houses of prostitution, or conspiring to run two houses of prostitution, or being a pimp, these do not violate Federal law. The charge of conspiracy is directed towards an agreement to violate the Federal laws against prostitution, and when I speak of interstate prostitution violations as being the purpose of the alleged conspiracy, I refer to the statute that I just read, and the following three statutes, which I will now read to you.

The second statute which I will read to you, Section 2421 of Title 18, provides, in pertinent part:

"Whoever knowingly transports in interstate or foreign commerce any woman or girl for the purpose of prostitution, or with the intent and purpose to induce, entice or compel such woman or girl to become

a prostitute or to engage in any other immoral practice, shall be guilty of an offense against the United States."

And Section 2422 of Title 18 provides, in pertinent part:

"Whoever knowingly persuades, induces, entices, or coerces any woman or girl to go from one place to another in interstate or foreign commerce for the purpose of prostitution, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution, whether with or without her consent, and thereby knowingly causes such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate commerce shall be guilty of an offense against the United States."

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And Section 2423 of the United States Code, Title 18, provides as follows:

"Whoever knowingly persuades, induces, entices or coerces any woman or girl who has not attained her eighteenth birthday, to go from one place to another by common carrier, in interstate commerce with intent that she be induced or coerced to engage in prostitution, shall be guilty of an offense against the United States."

I instruct you that the Indictment alleges in

Count 1 that the defendant, Salvatore Riniolo, conspired with Linda Huber Ferguson and other unindicted co-conspirators to violate one or more of these Federal anti-prostitution laws, which I just read to you, and that in furtherance of the conspiracy that some overt act was committed.

I mentioned earlier he is not being tried for being a pimp, if he is one, or for being a partner in a house of prostitution. The charges here are limited to violation of specific Federal laws, and conspiracy to violate those laws, and that is all you should be concerned with in this case.

In order to convict the defendant on Count 1, the following three essential elements must be established to your satisfaction beyond a reasonable doubt. Now listen carefully to these elements, because I am now going to give you the elements of Count 1. The other Counts have different elements.

First Element: That the conspiracy charged in Count 1 did, in fact, exist; that is, that two or more persons agreed with each other to violate the Federal laws regulating interstate prostitution activities which I just read, or at least one of those laws, and that they reached that agreement together at some point at or about the time period alleged in the Indictment,

which is mentioned as being from June 1, 1972, to January 31, 1974. That is the first element.

Second Element: That Mr. Riniolo knowingly and willfully associated himself with the conspiracy and did so with the required specific criminal knowledge and intent, that is, that he became a member.

Finally, the third element is: That one of the conspirators committed in the Western District of New York, at least one of the overt acts set forth in the Indictment at or about the time and place alleged.

Now, I will talk further about each of these elements one at a time.

The first element of Count 1 that you must determine is whether the conspiracy charged in this Indictment did, in fact, exist. Well, what is a conspiracy? For our purposes in this case, a conspiracy is simply a combination or an agreement or an understanding reached by two or more members to act together and in concert to commit a crime. Conspiracy is sometimes referred to as a partnership for criminal purposes in which each member of the conspiracy becomes the agent for every other member to achieve a common criminal result together. The gist of the crime of conspiracy is the unlawful agreement, or combination of two or more persons to violate the law together and the crime

of conspiracy is entirely separate and distinct and different from the violation of the law or laws which may have been the object or purpose of the conspiracy.

So, if a conspiracy exists and if an overt act is committed in furtherance thereof, even if the conspiracy should fail in its purpose, the partners in it may still be convicted of a charge of conspiracy. The Government is not required to prove an actual violation of the Federal laws involving interstate prostitution took place, but need only prove that a conspiracy for the purpose I have previously stated came into existence at or about the times alleged and that the defendant on trial before you knowingly and willfully became a member of the conspiracy and that at least one overt act was committed by one conspirator in furtherance of its purposes.

To establish that a conspiracy existed, the Government is not required to show that two or more people sat around a table and had a discussion and entered into a pact or an agreement orally or stating that they formed a conspiracy to violate the law, setting forth the details of the plan and the means by which the unlawful project is to be carried out, or setting forth the part to be played by each conspirator. Indeed, it would be extraordinary if there was such a

formal document or a specific oral agreement. Your common sense will tell you that when men and women, in fact, undertake to enter into a criminal conspiracy, much is left to the unexpressed understanding. Conspirators usually don't reduce their agreements to writing or acknowledge them before a notary public, nor do they publicly broadcast or advertise their plans.

From its nature, a conspiracy is almost invariably secret in its origin and execution, but it's sufficient to prove the existence of a conspiracy if two or more persons in any manner through any contrivance impliedly or tacitly came to a common understanding to violate the law together. Express language or specific words are not required to indicate assent to or attachment to a conspiracy, nor is it required that you should find that all of the co-conspirators charged in the Indictment joined in the conspiracy in order to find that the conspiracy existed as charged. You need only find that one of the defendants, or this particular defendant on trial, entered into an unlawful agreement with one or more other persons in order to find that a conspiracy existed.

In determining whether there has been an unlawful agreement, you may judge acts and conduct of the alleged conspirators which are done to carry out

an apparent criminal purpose. You have all heard the adage, "Actions speak louder than words." Usually, the only evidence available is that of disconnected acts, which when taken together with each other, may show a conspiracy to secure a particular result just as satisfactorily and conclusively as more direct proof. The offense is complete whenever the unlawful agreement is made and any single overt act to effect the object of the conspiracy is thereafter committed by at least one co-conspirator. Proof of the accomplishment of the objects of the conspiracy, the actual bringing of the girls, may be the most persuasive evidence of the existence of the conspiracy itself. Success of the venture, if you believe it was successful, may be proof of the existence of the agreement. But it does not have to succeed in order to constitute a crime.

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In determining whether the conspiracy charged in this Indictment actually existed, you may consider the evidence of the acts and conduct of the alleged conspirators as a whole and the reasonable inferences or conclusions to be drawn from such evidence. If upon consideration of the evidence you find beyond a reasonable doubt that the minds of at least two of the alleged co-conspirators met in a conspiratorial agreement to work together in furtherance of the unlawful scheme

charged in this Indictment, that is, to violate the Federal laws concerning interstate activities in furtherance of prostitution, then that is proof that a conspiracy, in fact, existed, and the first element would be satisfied.

The period of time charged, as I mentioned earlier, was from on or about June 1, 1972, to January 31, 1974. It is not necessary for the Government to prove the conspiracy started and ended on those precise, specific dates. It's sufficient if you find that the conspiracy was formed, that it existed for some substantial time within the period set forth in the Indictment and that at least one overt act was committed during that period and in this District.

Now the second element in Count 1 which must be proved beyond a reasonable doubt is individual membership in the conspiracy by the person whose case you are considering, Mr. Riniolo.

If you do conclude that a conspiracy as charged existed, you must next determine whether he was a member, that is, whether he participated intentionally in the conspiracy with knowledge of its unlawful purposes and in furtherance of its unlawful objectives. To find that a defendant was a member of a conspiracy, you must find that he knowingly and intentionally participated therein.

Thus, mere knowledge by a defendant of the existence of a conspiracy or knowledge of an illegal act on the part of an alleged conspirator, or mere association with one or more conspirators is not sufficient to establish his membership in the conspiracy. The Government must establish beyond a reasonable doubt that the defendant, whose case you are considering, Mr. Riniolo, was aware of its basic purposes and objects and entered into the conspiracy with a specific criminal intent, that is, with a purpose to violate the law.

So if this defendant with understanding of the unlawful character of the conspiracy intentionally engages in actions or advises or assists for the purpose of furthering the illegal undertaking, he thereby becomes a knowing and willful participant and a conspirator, and the second element of Count 1 may be found to have been satisfied.

However, I want to caution you again -- mere association with one or more of the alleged co-conspirators doesn't make one a member of the conspiracy, nor is knowledge of its existence without participation sufficient to make one a conspirator. To find that he was a member of the conspiracy, you must first find that he acted knowingly and willfully and with specific knowledge and criminal intent, and I will discuss the meanings

of these words with you at greater length in a few moments.

Mere presence at the scene of the crime and knowledge that a crime is being committed are not sufficient to establish guilt unless you find beyond a reasonable doubt that the defendant was a participant and not merely a knowing spectator. This instruction applies to all Counts of this Indictment.

In determining whether the conspiracy existed as charged, you should consider the actions and declarations of all of the alleged participants. However, in determining whether Mr. Riniolo was a member of the conspiracy, if any, you should consider only his own acts and his statements, and not what others may have said or done. He cannot be bound by the acts or declarations of other participants until it is established that a conspiracy existed and that he was one of its members.

If it appears from the evidence beyond a reasonable doubt that the conspiracy was knowingly and willfully formed as alleged in the Indictment, and that Mr. Riniolo knowingly and willfully became a member of the conspiracy, and that thereafter one or more of the conspirators knowingly committed, in furtherance of the conspiracy, one or more of the overt acts charged,

then the success or failure of the conspiracy, to accomplish the illegal purpose, is immaterial.

I will now read to you the overt acts. The word "overt" means "open," that is to say, "observable," something that can be seen.

"1. On several occasions between approximately December 16, 1972, and December 23, 1972, the exact date being unknown, Rita Marie Burchill (who was then sixteen years of age and who had just been transported by automobile from Warren, Ohio, to Buffalo, New York, by the co-conspirator Raymond Pandelli) had conversations with Linda Huber Ferguson and Salvatore A. ("Sam") Riniolo.

"2. Sometime around December 23, 1972, the exact date being to the Grand Jurors unknown, Rita Marie Burchill obtained an airline ticket from Linda Huber Ferguson and traveled by commercial airline from Buffalo, New York, to Cleveland, Ohio;

"3. Sometime around December 18, 1973, the defendant Linda Ferguson, in Buffalo, New York, telephoned Betty Grand alias "Sammie" in Pittsburgh, Pennsylvania;

"4. Sometime during approximately the third week of January, 1974, the defendant Salvatore Riniolo, while at Apartment 401, 200 Niagara Street, Buffalo,

New York, had a conversation with a seventeen year old girl, who was then and there using the alias 'Joyce Williams';

"5. On or about January 19 and 20, 1974, the aforesaid 'Joyce Williams' had a conversation about prostitution with the defendants, Linda Huber Ferguson and Salvatore Riniolo, while at 829 Elmwood Avenue (Lower), Buffalo, New York."

Those are the overt acts. By the term "overt act" is meant any act committed by one of the conspirators in an effort to effect or accomplish some object or purpose of the conspiracy. The overt act need not be criminal in nature if considered separately and a part from the conspiracy. It may be as innocent as having a conversation or walking across the street or driving an automobile or using a telephone. It must, however, be an act which follows and tends toward accomplishment of the plan or scheme. It must be knowingly done in furtherance of some object or purpose of the conspiracy charged in the Indictment.

The commission of an overt act within this District, and of course, Buffalo, New York, is in this District, by a member of the conspiracy in furtherance thereof, is an essential element to the crime of conspiracy.

The purpose of requiring proof of an overt act is that parties might conspire together and agree to violate the law. And after they reach that agreement, they can change their mind and may do nothing to carry it into effect. If that happens, if it was only talk, then no crime has been committed.

It is not necessary for the Government to prove that each member of the conspiracy committed or participated in an overt act or any particular overt act, since the act of anyone done in furtherance of the conspiracy becomes the act of all the members of the conspiracy.

Also, the Government is not required to prove each of the overt acts as alleged in the Indictment. It is sufficient if it proves the commission of at least one of the overt acts by any co-conspirator.

Now you have heard me use the words "knowingly and willfully," and these are important words. The question is what do these words mean? Let me instruct you first to what they don't mean. They don't mean that the Government must show that the defendant knew that he was breaking a particular law before he can be convicted of a crime. They do not mean that the Govern-

anything to do with his personal or private reasons for violating the statute. If you think so, if after considering all the evidence in accordance with my instructions to you, you come to the conclusion that the defendant violated the statute, then in that event his personal or private reasons for violating the statute has no consequence as far as his guilt is concerned.

I instruct you that these words "knowingly and willfully" mean deliberately, intentionally. In other words, you must be satisfied beyond a reasonable doubt that the defendant acted with knowledge, consciously and in the free exercise of his will. The words "knowingly and willfully" are opposed to the idea of an inadvertent or accidental occurrence.

An act is done knowingly if it is done voluntarily and purposely and not because of mistake, accident, negligence or other innocent reason.

An act is done willfully if it is done knowingly and purposely and not because of mistake. "Willful" doesn't mean that the defendant, in addition to knowing what he was doing, must also suppose that he was breaking any particular law. Rather, it is sufficient if you are convinced beyond a reasonable doubt that he was aware of the general unlawful nature of his act.

Specific criminal intent must exist on the part

of the defendant before he may be convicted on this or on any other Count in this case.

A "specific intent," as the term implies, means the intent to commit the act. To establish a specific intent, the Government must prove that the defendant knowingly did an act which the law forbids, and purposely intended to violate the law. Such an intent may be determined from all the facts and circumstances in the evidence. He need not know what particular law or laws he was breaking, as long as he knew the general unlawful nature of his act and acted from a bad purpose.

Now as I explained to you, the three elements of Count 1, each must be proved beyond a reasonable doubt. If you find any element was not so proved, Mr. Riniolo must be found not guilty on Count 1. If all three elements have been proved to your satisfaction beyond a reasonable doubt, then it is your duty to find him guilty on Count 1.

Now I will go to Count 2 of the Indictment. Count 2 reads as follows:

"The Grand Jury Further Charges: That sometime during the month of December, 1972, the exact dates being to the Grand Jurors unknown, in the Western District of New York, and the Northern District of Ohio, the defendants herein, Linda Huber Ferguson, and

Salvatore A. (Sam) Riniolo, unlawfully did use telephone facilities between Warren, Ohio, and Buffalo, New York, and unlawfully did aid, abet, counsel, command, induce and cause one Raymond Rocco Pandelli and Rita Marie Burchill to travel in interstate commerce (that is, by automobile, from Warren, Ohio, to Buffalo, New York, sometime around December 16, 1973) with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity -- that is, a business enterprise involving prostitution in violation of Section 2421 of Title 18 of the United States Code; and thereafter, the said defendants, Linda Huber Ferguson and Salvatore A. (Sam) Riniolo, did perform and attempt to perform acts which would promote, manage, establish and carry on and facilitate the promotion, management, establishment and carrying on of the said unlawful activity, the said acts including, among others, (1) establishing Rita Marie Burchill as a prostitute at 829 Elmwood Avenue in Buffalo, New York, and (2) assisting in arranging a commercial flight from Buffalo, New York, to Cleveland, Ohio, all in violation of Sections 1952 and Section 2 of Title 18 of the United States Code."

That is Count 2.

Now, Section 1952 I read it to you earlier, and it provides, in pertinent part, as follows:

"Whoever travels in interstate or foreign commerce, or to otherwise promote, manage, establish, and carry on, or facilitate the promotion, establishment, and carrying on of any unlawful activity, and thereafter performs or attempts to perform any of the following acts:

"(1) To distribute the proceeds of any unlawful activity; or

"(2) To promote, manage, establish and carry on and facilitate the promotion, establishment, and carrying on of any unlawful activity, shall be guilty of an offense against the United States."

The statute further defines an unlawful activity as meaning prostitution offenses in violation of the laws of the United States.

In order to convict the defendant as charged in Count 2 of the Indictment, the Government must establish three essential elements of Count 2. First, that Raymond Rocco Pandelli and Rita Marie Burchill knowingly and willfully traveled in interstate commerce as charged, that is, between one state and another; and second, that this defendant, Salvatore A. ("Sam") Riniolo, knowingly and willfully aided, abetted or

caused, or commanded that travel, either directly or through Mrs. Ferguson.

Third, that the travel was done with the specific criminal intent on the part of this defendant and Pandelli and Burchill and Ferguson to further prostitution in violation of the Federal law involving prostitution, which I just read to you in connection with Count 1, and which I will not now repeat again.

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Now traveling in interstate commerce, or use of facilities in interstate commerce, in furtherance of the prostitution activity, is an essential element of the offense. It is sufficient to establish this element of the crime if a person under consideration travels in interstate commerce in order to facilitate or attempt to facilitate the unlawful activity/carrying of prostitutes across state lines for the purposes of prostitution, or aids or abets or causes someone else to do so.

It is not sufficient, however, simply to show travel or use of the facilities in interstate commerce, followed by the prostitution unless you find beyond a reasonable doubt that the travel or use of interstate facilities was with a specific dominant intent of having Miss Burchill engage in prostitution after her arrival in Buffalo or after her arrival in Cleveland.

Now, Section 2(A) of Title 18, of the United States Code provides, in relevant part, that:

"Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal."

Under the statute just read, the guilt of a defendant may be established without proof that the accused personally did every act constituting the offense charged. In other words, every person who willfully participates in the commission of a crime, while aiding or abetting or counseling or commanding or inducing or procuring the crime, may be found guilty of that crime.

In order to aid and abet another to commit a crime, it is necessary that the accused person willfully associate himself in some way with the criminal venture and willfully participate in it as he would in something he wishes to bring about; that is to say, that he willfully seek by some act or omission of his to make the criminal venture succeed.

It is not necessary to prove that the accused personally did every act constituting the offense charged. As a general rule, whatever any person is legally capable of doing himself, he can do through another person as his agent. So, if the acts or con-

duct of an employee or an agent are willfully ordered or directed--or willfully authorized by a defendant, then the law holds the defendant responsible for such acts or conduct just as if he had personally done the acts or conduct.

I previously defined the words "knowingly and willfully." The same definition applies to each Count of this Indictment.

If any element is not proved beyond a reasonable doubt to your satisfaction, you must acquit on Count 2. And this statement applies to every Count in the Indictment, although, as I mentioned before, the Counts have different elements.

I will now read Count 3:

"The Grand Jury Further Charges: That sometime around December 16, 1972, the exact date being to the Grand Jurors unknown, in the Western District of New York, and the Northern District of Ohio, Linda Huber Ferguson and Salvatore A. (Sam) Riniolo, unlawfully and knowingly did aid, abet, counsel, command, induce and cause one Raymond Rocco Pandelli (named herein as a co-conspirator but not indicted as a defendant) to transport in interstate commerce (that is, by automobile from Warren, Ohio, to Buffalo, New York) one Rita Marie Burchill for the purpose of prostitution, all

in violation of Sections 2421 and Section 2 of Title 18 of the United States Code."

Count 3 of the Indictment charges that Mr. Riniolo did knowingly and willfully cause Raymond Pandelli to transport or cause to be transported Rita Marie Burchill in interstate commerce in violation of Title 18, United States Code, Section 2421, and that statute which is commonly called the "Mann Act," I read to you before, and it provides, in relevant part, as follows:

"Whoever knowingly transports in interstate commerce any woman or girl for the purposes of prostitution shall be guilty of a crime against the United States."

Three essential elements are required to be proved beyond a reasonable doubt in order to establish the offense charged in Count 3.

First, the act or acts of transportation, or causing to be transported in interstate commerce, a woman or girl as charged.

Secondly, doing such act or acts knowingly and willfully.

Thirdly, doing such act or acts of transportation for the dominant purpose of prostitution.

In order to cause another person to commit a

criminal act, it is necessary that the accused willfully do something which results in the other person's doing something the law forbids.

The offense charged in the Indictment is complete once the woman or girl is knowingly and willfully transported, or caused to be transported, across State lines for prostitution as alleged.

If, however, the evidence in the case merely establishes that following the interstate transportation charged in the Indictment, prostitution was engaged in by such a woman or girl, although that fact may be considered by the jury for such light as it may shed upon the purpose of the trip at the time the transportation across State lines into New York occurred, it will not be sufficient in itself to establish guilt. Rather, the intention that she engage in prostitution upon arriving in Buffalo must exist in Pandelli's mind, and in the mind of whoever caused Pandelli to bring her at the time the trip was going on, in order for such a person to be guilty of this Count.

Here, again, a specific criminal intent on Riniolo's part, if he, in fact, caused Pandelli to transport the girl, must be present, as previously defined for you. Unless all the elements of Count 3 are proved beyond a reasonable doubt, he must be

acquitted, but if each element is so proved, it is your duty to convict. Such proof as to each element must be beyond a reasonable doubt.

Now I will read the fourth and last Count:

"The Grand Jury Further Charges: That sometime around December 23, 1972, the exact date being to the Grand Jurors unknown, in the Western District of New York and elsewhere, Linda Huber Ferguson and Salvatore A. (Sam) Riniolo, did unlawfully and knowingly persuade, induce, entice and coerce one Rita Marie Burchill, a girl who had not then attained her eighteenth birthday, to go from one place to another by common carrier, in interstate commerce; that is, by commercial airplane from Buffalo, New York, to Cleveland, Ohio, with intent that she be induced and coerced to engage in prostitution, all in violation of Sections 2423 and Section 2 of Title 18 of the United States Code."

Count 4 has four essential elements, each of which must be proved beyond a reasonable doubt in order to constitute a crime.

First: The act or acts of inducing, enticing or coercing a female to travel in interstate commerce, or causing such travel.

Second: That the woman or girl, and in this case Miss Burchill, had not yet attained her eighteenth

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birthday.

Now here it is not necessary that the Government prove that the defendant was aware that the woman was under eighteen years of age or that he knew how old she was. This is not an element which the Government must prove, but there must be a specific intent to transport this particular girl.

Third: That the travel caused was for the purposes of prostitution.

Fourth: That the act or acts was or were done knowingly and willfully.

I believe I have already defined all of the necessary words in these elements in connection with the other Counts, and those instructions apply here.

Now ordinarily intent may not be proved directly, because there is no way of fathoming or scrutinizing the operations of the human mind now and in the past. But you may infer a defendant's intent from all the surrounding circumstances. You may consider any statement made and done or omitted by a defendant, and all other facts and circumstances in evidence, which indicate to you what his state of mind or his intent was at the time.

I am almost at the end, members of the jury. I want to say a word about deliberating. Your first

step is to select and agree upon a person to act as a foreman or forelady of the jury. And I want to say to you that the opinion of your spokesman is, however, no more important or significant than that of any other juror. In deliberations, each juror is entitled to his or her own opinion. Each of you should exchange views with fellow jurors. That is the purpose of jury deliberations, to discuss and consider the evidence; to listen to the arguments of other jurors; to present your individual views, and to consult with one another politely and reasonably; and to reach a verdict based solely and wholly on the evidence, if you can do so without violence to your individual judgment. Each of you must decide the case for himself or herself after consideration with your fellow jurors. You shouldn't hesitate to change your opinion if after discussion with the other jurors it appears that you are wrong in light of the discussion viewed against the evidence and the law. However, if after carefully weighing all the evidence and listening to the arguments of your fellow jurors, you entertain a conscientious view that differs from the rest, you are not to give up your judgment simply because you are outnumbered or outweighed. The final vote of each of you must reflect your individual conscientious judgment as

to how this case should be decided. In order to reach a verdict on any Count, it must be unanimous as to that Count.

Under your oath as jurors, you can't allow a consideration of the possible sentence or punishment which may be inflicted upon the defendant if convicted to influence your verdict in any way or in any sense to enter into your deliberations.

The duty of imposing sentence rests exclusively upon the Court. Your function is to weigh the evidence in the case and to determine whether or not the defendant was proved guilty beyond a reasonable doubt as to any particular Count in the Indictment, and to do so solely upon the basis of the evidence and the law.

You are to decide the case upon the evidence and the evidence alone, and you mustn't be influenced by any assumption, conjecture or sympathy, or by any inference not warranted by the facts.

If you fail to find beyond a reasonable doubt that the law has been violated as to any Count, you shouldn't hesitate for any reason to find a verdict of not guilty. But on the other hand, if you should find that the law has been violated by this defendant as charged, you should not hesitate because of sympathy

or any other reason to render a verdict of guilty as to that Count.

Now I am sending in with you for your deliberations all of the Exhibits other than the tapes and the transcripts of the tapes. The transcripts of the tapes are not evidence. If you want to look at them, you can send out a note and say so. But you must understand that the evidence is what is on the tapes, and the transcripts were only allowed to be shown to you to help you listen to the tapes. Naturally, if you want to hear the tapes or any part of them, if you send out a note telling the Court that you would like to hear the tapes or what part of the tapes you would like to hear, then you will come out in the courtroom and they will be played for you with earphones if you want to hear them again. But I want to say to you that the transcripts are not really the evidence. The transcript is just there to help you hear the tapes and for that reason they will not be taken into the jury room.

If you want a copy of the Indictment, send out a note, and I will send it in. However, the Indictment is merely a charge or an accusation. It has no evidentiary value.

If you have any question about any part of my

instructions, you may send out a note asking for whatever will clear up any question you may have.

Also, you have the right to have testimony read to you, but I ask you not to do that unless you exhaust your recollection in your discussions with each other, and if you do ask for anything to be read, please be as precise in the note as you can.

Now the foreman will send out the notes, and when the jury has reached a verdict, the foreman will tell the U. S. Marshal that a verdict has been reached. In sending out any note, please don't tell me how your vote may then be divided. That is a subject I don't want to know.

Now finally speaking, your oath sums up your duty, and that is without fear or favor to anyone, you will well and truly try the issues between this defendant and the Government of the United States, and a true verdict give, based solely on the evidence and the Court's instructions as to the law.

It is important to the defendant; it is important to the Government; and it is important to you.

Mr. Donahue, it turns out that we haven't need of your services in this trial, and I thank you for your regular attendance here. I ask you to please return to the Court at 1:45 this afternoon. I also ask

you please don't discuss the case until the jury has finished its work and has been discharged, and please don't speak to any of the lawyers or witnesses or anybody connected with the case until that time.

JUROR: Your Honor, did you say "Donahue"?

THE COURT: My record shows Mr. Donahue is Alternate No. 2, Eugene Donahue.

JUROR: I am Alternate No. 2.

THE COURT: I guess the notes are incorrect. I beg your pardon. It looks like my records are incorrect. I'm sorry, gentlemen. That is what I have on my notes. It is a piece of paper. It is not part of the Court's regular record. I was mistaken as to the names. Will the two alternates state your names for the record, please?

JUROR: I am Walter Kennedy.

THE COURT: What I just said to Mr. Donahue applies to you, sir.

JUROR: My name is Michael Walek.

THE COURT: Gentlemen, you are both excused. I'm sorry for the mixup. Come back at 1:45 and don't discuss the case in the interim.

(Two alternate jurors excused.)

(Two marshals were duly sworn.)

THE COURT: Members of the jury, I ask you to

remain seated in the box briefly and not to discuss the case with each other because I want to confer with the attorneys in the next room. It is possible I might have something additional to say to you. Every juror is entitled to be a party to all deliberations, so don't discuss the case except when all twelve of you are together, and please, if you go out to lunch today, don't discuss the case in the public restaurant, and conduct your deliberations in the jury room. You are also instructed you may not touch or look at or use any of those books which are in the jury room. And one reason is that they are all out of date, and the second reason is that it is improper for you to look at them in any event.

All right, please stand where you are, and I will join you in just a few minutes.

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(In the robing room.)

THE COURT: Mr. O'Keefe, I will begin with you. Do you have any additional requests or any exceptions?

MR. O'KEEFE: No exceptions or requests.

THE COURT: Mr. McMoyer?

MR. MC MOYER: Yes, Judge. I except to that part of the charge that stated there was no need on the part of the Government to show knowledge with re-

spect to the age of Miss Burchill in Count 4.

THE COURT: Yes. I thought I gave you an exception on that yesterday, but you are entitled to it, and I will state for the record I am relying on an extension of the theory of United States against Feola. If he had the intent to transport that particular girl, then the age goes along with it, and you are entitled to an exception on that point.

MR. NE MOYER: Okay. Then I request in regard to the same Count, Judge, that the jury be instructed that the Government has to show use of a common carrier.

THE COURT: Which Count number are you talking about?

MR. NE MOYER: Count No. 4, Judge.

THE COURT: I think that in reading the Count it is clear that is the instruction, and I think the testimony was all to the effect that that particular trip in a common carrier, namely, an airline.

MR. NE MOYER: Then I request that you tell the jury that the use of an automobile by Mr. Pandelli to bring her here did not constitute --

THE COURT: Under Count 4 there is no evidence that she went anywhere other than by airplane, so there is no need to instruct about an automobile. But I think that on Count 3 the automobile, which is alleged in the

Indictment, is sufficient.

MR. ME MOYER: I am addressing myself to Count 4.

THE COURT: Yes, but as to Count 4 -- if she went at all, she went by airplane. There is no evidence she went by automobile.

MR. ME MOYER: I think when she came here, Judge, she came by automobile driven by Pandelli.

THE COURT: Yes, but that was under a different Section that he was charged. He is charged under 2421 on Count 3, a simple Mann Act violation, aiding and abetting a Mann Act violation. When you come to 2423, the charge which is in Count 4, I agree with you, you have to have a carrier, but I think that is what I instructed -- and all the evidence is by carrier. I read them the Count verbatim, and it says "common carrier." If you want me to describe "common carrier" to them, I will do that.

MR. ME MOYER: I think the evidence is clear she did not come here by common carrier.

THE COURT: I beg your pardon?

MR. ME MOYER: You are correct with respect to Count 4. She went to Cleveland by common carrier. On Count 3 the automobile is good enough. On Count 4, I think the evidence is that the witness Ferguson advised her to leave Pandelli and --

THE COURT: That is for the jury. That was argued to the jury equally. I agree with you that Count 4 is awfully thin, but I think it is better that the jury deal with it.

All right, you may have an exception to that. I will instruct them what a common carrier is.

Is there anything else?

MR. NE MOYER: I have nothing else, Your Honor.

(In open court.)

THE COURT: There is one additional thing I want to mention to the jury with respect to Count 4. I believe I did state it, but I want to make certain I was clear on the subject.

Under Count 4 which is alleged to be the trip of Rita Marie Burchill from Buffalo back to Cleveland, Ohio, it must appear that the transportation in interstate commerce was by common carrier, that is, commercial airplane from Buffalo, New York, to Cleveland, and only that means of transportation would be satisfied under Count 4. Unless it is proved beyond a reasonable doubt that she went by common carrier, and unless all the other elements that I mentioned to you before are proved, the defendant must be acquitted on Count 4.

What is a "common carrier"? A common carrier

is a corporation or business which is licensed for the purpose of transporting people for hire between one place in one state and another place in another state and which is open to all the general public. That is why they call it a common carrier, because any member of the general public may go in and buy a ticket and transport himself to wherever he is going in interstate commerce. So here we are talking about a regular commercial airline, the sort which departs from Buffalo to Cleveland. I'm sure you all understand what is meant by a common carrier in that context.

All right, members of the jury, you may now retire and deliberate.

(At 11:45 a.m., the jury retired to deliberate upon a verdict.)

(At 12:05 p.m., in the robing room, counsel present.)

THE COURT: The Court has a note from the jury received about two minutes ago, and reads as follows: "Judge, could we have Indictment No. 1?"

I assume that they mean Count No. 1.

Now do you have a redacted copy of Count No. 1?

MR. O'KEEFE: I don't, Your Honor.

THE COURT: What is your pleasure? Do you want me to have one run on the Xerox machine? In my

reading to the jury, I had eliminated, as I told you both that I would do during the charge conference, or perhaps earlier, the reference to Article 230 of the Penal Law and the first six lines on Page 2.

MR. NE MOYER: Right, yes.

Are you going to send something in to the jury?

THE COURT: I'm seeking advice from counsel here on both sides. I have this request. I have no clean copy of Count 1, and apparently, the United States Attorney does not either, so the question is, do you want me to take scissors and Xerox it or to ask the Clerk to do so? Or do you want me to merely tell them that I don't have a clean copy or I will read it to them? Or do you want me to take a magic marker and blank out the material --

MR. NE MOYER: In the first instance, then, I suggest that you re-read the Count to them, and if you decide to go further and send something to them, I wish you would send in a redacted copy.

THE COURT: How would you like to have it redacted?

MR. NE MOYER: I would prefer that it not indicate that it is redacted, but I don't know physically how you can do it.

THE COURT: The only way I can physically do it

on such short notice is by just reading it. I will tell them that I don't have a clean unmarked copy, so I'm going to read them Count 1. As to the other Count, I have no problem. I can simply take that off with scissors.

All right. I will get them back in the courtroom and read them Count 1.

(In open court; jury present.)

THE COURT: Members of the jury, I have your note, which was handed to me about six or seven minutes ago, and it says, "Could we have Indictment No. 1?" And I assume the note means Count 1. I do not have available to me right at this time a clean copy of just Count 1 of the Indictment. It would take a little bit of time to get that. If you would like to wait, I will have the proper copy of Count 1 of the Indictment made for you and simply send it to you. If you would like to have me read it to you instead, or if you would like both to have it read and then have the proper copy obtained, I am willing to whichever the jury wishes to have done.

THE FOREMAN: Would you read it now, Your Honor, and then give us a copy?

THE COURT: All right, sir. I will now read Count 1:

"The Grand Jury Charges: That continuously between approximately June 1, 1972, and January 31, 1974, that exact dates being to the Grand Jurors unknown in the Western District of New York and elsewhere, the defendants herein, Linda Huber Ferguson and Salvatore A. ("Sam") Riniolo, unlawfully did conspire, combine and agree together and with other and with Carol Barber, Betty Grand a/k/a "Sammie," Mamie Harris and Raymond Pandelli (named herein as co-conspirators but not as defendants) and with numerous other persons most of whose names are to the Grand Jurors unknown, to commit offenses against the United States of America, namely:

"(A) To use facilities in interstate commerce (that is, telephone facilities and common carriers) and to travel and to cause others to use such facilities and travel in interstate commerce (that is, by airplane, bus and automobile between Buffalo, New York, in the Western District of New York and places outside the State of New York, including, among others, Boston, Massachusetts, Warren, Ohio, and Pittsburgh, Pennsylvania) with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of a certain unlawful activity -- the said unlawful activity being a business

enterprise involving prostitution, in violation of Sections 2421, 2422 and 2423 of Title 18 of the United States Code; and

"(B) To knowingly transport and cause, aid and abet the transportation in interstate commerce (that is, between Buffalo, New York and points outside the State of New York) of women and girls for purposes of prostitution, debauchery and other immoral purposes; C48 and to knowingly procure and obtain and cause, aid and abet the procurement and obtaining of tickets and other forms of transportation and evidence of rights thereto to be used by various women and girls in interstate commerce as aforesaid, and in going between Buffalo, New York, and other places outside the State of New York for purposes of prostitution, debauchery and other immoral purposes, in violation of the provisions of Sections 2421 and Section 2 of Title 18 of the United States Code; and

"(C) To knowingly persuade, induce and entice and cause, aid and abet the persuasion, inducement and enticement of women and girls to go from one place to another in interstate and foreign commerce (that is, between Buffalo, New York, and points outside the State of New York) for purposes of prostitution, debauchery and other immoral purposes, and thereby to knowingly

cause such women and girls to go and be transported as passengers upon common carriers (that is, airplanes, buses and trains) in interstate commerce as aforesaid, in violation of the provisions of Sections 2422 and Section 2 of Title 18 of the United States Code; and

"(D) To knowingly persuade, induce and entice and cause, aid and abet the persuasion, inducement and enticement of girls, who had not attained their eighteenth birthday, to go from one place to another as aforesaid by common carrier as aforesaid in interstate commerce with intent that such girls be induced to engage in prostitution, debauchery and other immoral practices, in violation of Sections 2423 and Section 2 of Title 18 of the United States Code:

"Overt Acts: And, during the period aforesaid, the said defendants, Linda Huber Ferguson and Salvatore A. ("Sam") Riniolo, committed, among others, the following overt acts in furtherance of the said conspiracy and in order to effectuate the object and purpose thereof, to wit:

"1. On several occasions between approximately December 16, 1972, and December 23, 1972, the exact date being unknown, Rita Marie Burchill (who was then sixteen years of age and who had just been transported by automobile from Warren, Ohio, to Buffalo, New York,

by the con-conspirator Raymond Pandelli) had conversations with Linda Huber Ferguson and Salvatore A. ("Sam") Riniolo.

"2. Sometime around December 23, 1972, the exact date being to the Grand Jurors unknown, Rita Marie Burchill obtained an airline ticket from Linda Huber Ferguson and traveled by commercial airline from Buffalo, New York, to Cleveland, Ohio;

"3. Sometime around December 18, 1973, the defendant Linda Ferguson, of Buffalo, New York, telephoned Betty Grand alias "Sammie" in Pittsburgh, Pennsylvania;

"4. Sometime during approximately the third week of January, 1974, the defendant, Salvatore Riniolo, while at Apartment 401, 200 Niagara Street, Buffalo, New York, had a conversation with a seventeen-year-old girl, who was then and there using the alias 'Joyce Williams';

"5. On or about January 19 and 20, 1974, the aforesaid 'Joyce Williams' had a conversation about prostitution with the defendants, Linda Huber Ferguson and Salvatore Riniolo, while at 829 Elmwood Avenue (Lower), Buffalo, New York.

"All of which was in violation of Section 371 of Title 18 of the United States Code."

Members of the jury, that completes the reading of Count 1. The Court will attend to obtaining a proper copy of just Count 1, and I will send it in to you when I have it, which may be after the luncheon recess.

You may now withdraw and resume your deliberations.

(At 12:15 p.m., the jury again retired to continue their deliberations.)

(Jury not present.)

THE COURT: The point is well taken here that the jury is entitled to see a copy of the Count which has omitted from it the materials which the Court struck and which does not appear physically to be redacted, tampered with in any fashion. The practice of blanking out parts of it has been disapproved by the Second Circuit in connection with the practice in either Vermont or Connecticut -- I'm not certain which, and I can't distinguish that case here, so I think it is appropriate without the absence of any consent to the contrary, that Pages 1 and 2 be re-Xeroxed in such a fashion and using the same typeface so they look complete on their face and so that the jury will not speculate as to those portions which the Court struck out. There is no problem about pages 3 and 4,

except that since they only asked for Count 1, you will cut off a page before Count 2 begins.

Now is there any reason, Mr. O'Keefe, why you can't do that right away and bring back three copies, one that Mr. McMoyer can examine and one for the Court's file and a third one, which I will send to the jury?

MR. O'KEEFE: I would like to know if you can mark exactly what you will submit.

THE COURT: I have my marked copy, and I will have the Clerk mark it as a Court's Exhibit what I read and the material within the parentheses is the material that I redacted and didn't read, so you shouldn't have any real difficulty with it. You ought to do it real promptly.

MR. O'KEEFE: Are there any parts in there where we can require, like three dots to fill in and --

THE COURT: As I understand the case law, they are not to be given an Indictment which appears to have had things stricken out by the Court which would induce them to speculate as to what was stricken out. That is not my rule. That is a rule which the Circuit made in connection with practice in either Vermont or Connecticut where things were a little different and where they automatically give them the Indictments whether they ask for them or not. I feel constrained

in any absense to the consent to the contrary, so I want you to reconstruct these pages by means of Xerox so they look genuine but not to put dots in to show omissions. That is exactly what they don't want you to do. If there is any difficulty, feel free to discuss it with me.

How long do you think it will take?

MR. O'KEEFE: I will look at it and get someone to work on it.

THE COURT: I don't want them necessarily to re-type it, but it has to be reconstructed by Xerox so it doesn't look like a contrivance.

Is there anything you want to add to this matter, Mr. McMoyer?

MR. NE MOYER: No, Judge, except as the law provides, I want it not to appear redacted.

THE COURT: Yes, but you are satisfied with the instructions that I have given the prosecutor at this time?

MR. NE MOYER: Yes.

THE COURT: Please stand by so you can have a look at it before it actually goes in. I think they are going to go to lunch at a quarter to one, so you can guide your own luncheon arrangements accordingly.

(Recess)

(At 12:45 p.m., the jury was escorted to lunch, after which they returned to the jury room and continued their deliberations.)

(At 4:30 p.m., the jury returned to the courtroom.)

THE COURT: Will the Clerk please ascertain if the Jury has reached a verdict?

THE CLERK: Mr. Foreman, has the jury agreed upon a verdict?

THE FOREMAN: We have.

THE CLERK: What is your verdict on Count 1 of the Indictment?

THE FOREMAN: Guilty.

THE CLERK: What is your verdict on Count 2 of the Indictment?

THE FOREMAN: Not guilty.

THE CLERK: What is your verdict on Count 3 of the Indictment?

THE FOREMAN: Not guilty.

THE CLERK: What is your verdict on Count 4 of the Indictment?

THE FOREMAN: Not guilty.

THE CLERK: Please listen as the Court records your verdict. You say you find the defendant guilty on Count 1 of the Indictment, not guilty on Count 2 of

the Indictment, not guilty on Count 3 of the Indictment, not guilty on Count 4 of the Indictment.

Is your verdict as the Court has recorded it?

THE FOREMAN: That's correct.

THE COURT: I direct that the verdict of the jury be recorded.

Is there a request to poll the jury individually?

MR. NE MOYER: I would request that.

THE COURT: The jury may be polled individually.

(Each juror, upon being asked by the Clerk, "Is that your verdict," answered in the affirmative.)

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THE COURT: Members of the jury, at this time I am about to excuse you, and you will remain subject to the call of the Clerk's Office whether they will need you again or not, and they will let you know. At this time I want to tell you that you are released from my direction that you may not discuss the case. You now have all the rights of free speech that every American citizen has. By the same token, there is no person that can compel you to discuss the case, and no attorney or anybody else has any right to interview you or question you or ask you what your deliberations were. I ordinarily tell jurors that you may feel better about your work as a juror if you put it in the past

and refuse to discuss it with anyone who should ask you. If anybody harasses you or bothers you in any way or asks questions and doesn't heed your expression as to whether or not you wish to talk to them, then you should notify the Chief Judge of this court immediately, because no person, not even the judge himself, has any right to ask jurors how or why or for what reason or what the scope of their deliberations were.

I want to thank you at this time for your prompt attendance during this trial, and you are excused with the thanks of the Court. You may withdraw from the courtroom at this time.

(Jury excused.)

THE COURT: I will direct the Probation Officer to make a full report with respect to Mr. Riniolo, and I will set a date for the case, depending on what his scheduling will be. And I would like you to go down there now and see Mr. Schafer.

MR. SCHAFER: I am here, Your Honor. We already talked to him, Judge.

THE COURT: You did?

MR. SCHAFER: Yes.

THE COURT: That is not being very optimistic.

MR. SCHAFER: No, Judge. It might be realistic.

THE COURT: What is a likely date?

MR. SCHAFER: October 29th.

THE COURT: In that case you are continued on your existing bail, Mr. Riniolo.

DEFENDANT RINIOLO: Thank you, Your Honor.

THE COURT: October 29th, at ten fifteen. And it is your obligation to be here at that time and place.

For the record, what is his bail?

MR. O'KEEFE: I have five thousand dollars -- property.

THE COURT: All right. There is no problem with that. Thank you gentlemen. You are continued until October 29th.

MR. MC MOYER: Thank you, Your Honor.

(At 4:40 p.m., Tuesday, October 19, 1976, the trial in the above-entitled matter was concluded.)

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not is for me to decide.

BY MR. CARNEY:

Q. And you used the same affidavit for both search warrants, isn't that correct?

A. Yes, sir.

Q. They are identical?

A. Yes, sir.

Q. Now, prior to getting this search warrant, did you ever talk to Joyce Williams?

A. No, sir.

Q. So that everything that you say relative to what Joyce Williams said you have from Detective Sergeant Dayka who in turn was telling you what Joyce Williams said, is that correct?

A. Yes, sir.

Q. And you never saw a copy of any statement, did you, that Joyce Williams has made out prior to your executing this search warrant?

A. No, sir.

Q. So then in effect you are taking Dayka's word for the fact that Williams made a statement which incriminated Ferguson and Riniolo, is that correct?

A. Yes, sir.

Q. And you have no knowledge, I assume, that Joyce Williams

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WESTERN DISTRICT OF NEW YORK

A. From past experience I have learned that a good many times they do give different names and different addresses.

Q. And you had never met Joyce Williams before, had you?

A. No, I did not, sir.

Q. She had never been an informant of yours, had she?

A. No, she didn't. She was not.

MR. CARNEY: I have no further questions.

THE COURT: Mr. Stewart.

CROSS EXAMINATION BY MR. STEWART:

Q. Detective Sergeant Dayka, the report which is now Defense Exhibit 1, does that report truly and accurately reflect the information which you obtained from Miss Williams on the night that you interrogated her?

A. Yes, it does, sir.

Q. All right, and did you then convey to Special Agent Hawley to the very best of your ability and in the most accurate fashion exactly what it was that Miss Williams had said to you on that particular evening?

A. Yes, sir.

Q. And following the phone call which is described in your report, did you endeavor to ask Miss Williams further questions?

A. I asked, - I attempted to but Miss Williams did not say

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OFFICIAL REPORTERS, U. S. DISTRICT COURT
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upon you is concerned, the record shows you are a mature individual, that you have no prior criminal record. You have been a good father to your own children and to the daughter of the co-defendant. And you have many positive characteristics. I have many fine letters, a great many letters, from family, friends, and members of the clergy, and people of standing in the community, and there is a definite side to your situation which the Court recognizes. I am also aware that you have some medical problems, and there is another side to your situation, Mr. Riniolo, that is not so good. Your illness has apparently prevented you from working for two years, and you have been on welfare. You are not so ill that you couldn't help count the money in the house of prostitution when you hadn't been working. But now when you are up for sentence, all of a sudden you have an offer for a job from a relative. There is no reason why you shouldn't be working.

DEFENDANT RINIOLO: May I say that I was working during the time of this situation -- I had been working. I had the stores. This was before I was arrested.

THE COURT: But for the past two years you have been on public assistance.

DEFENDANT RINIOLO: One year, sir.

THE COURT: When did you go on?

counted by Linda Ferguson and Joyce Williams claimed that he was present and made a comment as to the amount but that he never counted the money.

THE COURT: He made the comment as to the amount, and he told her she had a good week.

MR. NE MOYER: That is what he said because Linda Ferguson counted the money and gave it to the girl in his presence.

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THE COURT: All right. There is a serious aspect of this crime, which the Court has to consider and there are some things that can't be overlooked. The judges ought not close their eyes to things that all other people can see and understand. Here we have a flourishing interstate prostitution business that we heard about in this trial, which was working in two separate locations in Buffalo, and during six years, and you, yourself, said that you had never had an arrest and told Joyce Williams that. And this place seemed to have five or ten customers on some nights, some of them coming to the fourth floor of 200 Niagara Street. And nobody, not the landlord, not the neighbors, not the vice squad, bothered this business.

DEFENDANT RINIOLO: Excuse me -- may I say something? At the 829 address there was nothing going on there.

THE COURT: How about 200 Niagara?

DEFENDANT RINIOLO: I have no idea. I was never there.

THE COURT: The 829 address, that is where Joyce Williams was working, wasn't she?

DEFENDANT RINIOLO: I believe so. That is what I heard in the trial, but the 829 address, there was nothing going on there. All that was there was Linda Ferguson and her daughter.

THE COURT: There is one other mystery about this case. Nobody has any money. Mrs. Ferguson has no money. You have no money, and Mrs. Harris, who was supposed to have been a partner in this thing, although she really didn't say she was, and although when Mrs. Ferguson was in the hospital, she has no money, either. And here there is this tremendous income, and where did it go? That suggests an air of mystery and suggests that an organization exists with respect to this business, and there must be something going on with respect to this kind of interstate prostitution activity over this long period with no disturbance, which is unwholesome to the community. And I think the Court has to take a firm view of this kind of criminal conduct and that we owe a duty to the public to impose a sentence as a deterrence, to tell people, "Even if you can run a

UNITED STATES COURT
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA, :

Plaintiff-Appellee, :

-vs- : AFFIDAVIT 76-1583

SALVATORE S. RINIOLO, :

Defendant-Appellant. :

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

PHILIP B. ABRAMOWITZ being duly sworn, deposes and says:

That on this date, March 17, 1977, I did deposit in the United States mailbox located at the Main Place Tower, Buffalo, New York, two copies of the Brief and one copy of the Appendix in the above case and addressed the said material to Henry Walker Esq., Criminal Appeals Division, United States Department of Justice, Washington, D.C.

Philip B. Abramowitz

Sworn to before me this
17th day of March, 1977.

Janet Search

JANET SEARCH
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1978